

THE OFFICE OF REGULATORY STAFF
SUPPLEMENTAL TESTIMONY &
EXHIBITS OF
MICHAEL L. SEAMAN-HUYNH
OCTOBER 19, 2018



DOCKET NO. 2017-370-E

Joint Application and Petition of South Carolina Electric & Gas Company and Dominion Energy, Incorporated for Review and Approval of a Proposed Business Combination between SCANA Corporation and Dominion Energy, Incorporated, as May be Required, and for a Prudency Determination Regarding the Abandonment of the V.C. Summer Units 2 and 3 Project and Associated Customer Benefits and Cost Recovery Plans

SUPPLEMENTAL TESTIMONY AND EXHIBITS OF
MICHAEL L. SEAMAN-HUYNH
ON BEHALF OF
THE SOUTH CAROLINA OFFICE OF REGULATORY STAFF
DOCKET NO. 2017-207, 305, 370-E

**IN RE: JOINT APPLICATION AND PETITION OF SOUTH CAROLINA
ELECTRIC & GAS COMPANY AND DOMINION ENERGY,
INCORPORATED FOR REVIEW AND APPROVAL OF A PROPOSED
BUSINESS COMBINATION BETWEEN SCANA CORPORATION AND
DOMINION ENERGY, INCORPORATED, AS MAY BE REQUIRED, AND
FOR A PRUDENCY DETERMINATION REGARDING THE
ABANDONMENT OF THE V.C. SUMMER UNITS 2 & 3 PROJECT
AND ASSOCIATED CUSTOMER BENEFITS AND COST RECOVERY
PLANS**

Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND OCCUPATION.

A. My name is Michael Seaman-Huynh. My business address is 1401 Main Street, Suite 900, Columbia, South Carolina 29201. I am employed by the State of South Carolina as a Senior Regulatory Manager in the Utility Rates and Services Division of the Office of Regulatory Staff (“ORS”).

Q. DID YOU FILE DIRECT TESTIMONY AND EXHIBITS IN THIS PROCEEDING?

A. Yes. I filed direct testimony and four (4) exhibits with the Public Service Commission of South Carolina (“Commission”) on September 24, 2018.

Q. WHAT IS THE PURPOSE OF YOUR SUPPLEMENTAL TESTIMONY?

A. The purpose of my supplemental testimony is to provide the Commission an update on the joint application of SCANA Corporation (“SCANA”) and Dominion Energy,

Incorporated (“Dominion”) (together the “Applicants”) in North Carolina Docket Nos. E-22, Sub 551 and G-5, Sub 585 (“North Carolina Application”) and ORS’s supplemental recommendations based on the update. My testimony will address:

- An overview of the natural gas operations of Public Service Company of North Carolina, Incorporated (“PSNC”) in North Carolina;
- The stipulation agreement reached between the Applicants, Transcontinental Gas Pipeline Company, LLC (“Transco”), and the North Carolina Public Staff (“Public Staff”) regarding the North Carolina Application; and,
- Additional ORS recommendations to benefit South Carolina Electric and Gas Company (“SCE&G”) natural gas customers and provide additional protections for all electric and natural gas customers.

I. PSNC NATURAL GAS OPERATIONS

Q. PLEASE DESCRIBE PSNC GAS OPERATIONS IN NORTH CAROLINA.

A. PSNC, a wholly-owned subsidiary of SCANA, is engaged in the purchase, sale, distribution, and transportation of natural gas to approximately 563,000 natural gas customers in North Carolina.¹ The service area for natural gas encompasses all or part of 28 counties in North Carolina and covers approximately 12,000 square miles.

Q. PLEASE DISCUSS THE IMPACT OF THE NORTH CAROLINA APPLICATION ON PSNC.

A. If the North Carolina Application is approved by the North Carolina Utility Commission (“NCUC”), SCANA will become a wholly-owned subsidiary of Dominion

¹ SCANA December 31, 2017 Form 10-K, page 7.

subsequent to other regulatory approvals. PSNC will remain a direct, wholly-owned subsidiary of SCANA.

II. NORTH CAROLINA STIPULATION AGREEMENT

Q. PLEASE PROVIDE AN UPDATE OF THE STIPULATION AGREEMENT REACHED BETWEEN THE APPLICANTS, TRANSCO, AND THE PUBLIC STAFF.

A. On October 4, 2018, a stipulation agreement reached between the Applicants, Transco, and the Public Staff regarding the North Carolina Application (“North Carolina Stipulation Agreement”) was filed with the NCUC. The North Carolina Stipulation Agreement is attached to my testimony as Supplemental ORS Exhibit MSH-1. Among other things the North Carolina Stipulation Agreement provides customers of PSNC with the following benefits and protections should the NCUC approve the North Carolina Stipulation Agreement and the merger between the Applicants:

- Regulatory Conditions
- Bill Credits
- Charitable Contributions
- Merger-Related Expenses
- Rate Moratorium
- Protections Against Debt Downgrade
- Customer Service
- Cost Savings Opportunities
- Affiliate Agreements

III. ORS RECOMMENDATIONS

Q. HAS ORS REVIEWED THE NORTH CAROLINA STIPULATION AGREEMENT?

A. Yes. ORS reviewed the North Carolina Stipulation Agreement and recommends the Commission consider additional benefits for SCE&G natural gas customers and additional protections for all electric and natural gas customers. ORS recommends that the Commission consider including a “Most Favored Nation” clause in its final order. Additionally, ORS recommends that SCE&G provide a total bill credit of \$2.45 million that will be credited to its natural gas customers over three (3) years.

Q. PLEASE EXPLAIN ORS’S RECOMMENDATION THAT THE COMMISSION INCLUDE A “MOST FAVORED NATION” CLAUSE IN ITS FINAL ORDER.

A. A Commission ordered "Most Favored Nation" clause would guarantee that both SCE&G electric and natural gas customers receive pro rata benefits and protections equivalent to those which may be approved by another state jurisdiction. This type of clause would allow the Commission to review and identify if other state jurisdictions provide a greater level of benefits and protections to customers than those approved by the Commission and make a corresponding adjustment to the merger conditions to ensure South Carolina customers receive the greatest level of benefits and protections. The North Carolina Stipulation Agreement includes a “Most Favored Nation” clause in Section 16.5 of the Regulatory Conditions, shown on page 48 of Supplemental ORS Exhibit MSH-1. The Commission previously included a "Most Favored Nation" clause in the merger of Duke Energy Carolinas, LLC and Progress Energy Carolinas, Inc. in Docket No. 2011-158-E, Order No. 2012-517. The “Most Favored Nation” clause ordered by the Commission is shown on page 39 of Supplemental ORS Exhibit MSH-2.

Q. PLEASE DISCUSS ORS'S RECOMMENDATION THAT THE COMMISSION ORDER SCE&G TO PROVIDE A BILL CREDIT TO NATURAL GAS CUSTOMERS.

A. The Applicants have made no commitment to providing any quantifiable benefits to the SCE&G natural gas customers. The NC Public Staff identified the same concern in its Direct Testimony.² The Public Staff believes that some level of savings will be realized by the Applicants should the merger be completed. As such, the Public Staff recommends that PSNC provide a total bill credit of \$3.75 million that will be credited to customers in equal increments of \$1.25 million on January 1, 2019, \$1.25 million on January 1, 2020, and \$1.25 million on January 1, 2021. The Public Staff has been involved with the merger of natural gas utilities in North Carolina and has seen savings to customers in each case.³ The Applicants agree to the recommendation of the Public Staff in the North Carolina Stipulation Agreement, as shown on page 3 of Supplemental ORS Exhibit MSH-1.

In reviewing the Direct Testimony of the Public Staff and the North Carolina Stipulation Agreement, ORS recommends that SCE&G natural gas customers receive the same benefits from the merger as PSNC customers. Therefore, the ORS recommends that SCE&G provide a total bill credit of \$2.45 million to be credited to its natural gas customers over three (3) years beginning with the first year of the merger (presumed to be 2019). The amount is derived from the total number of customers for each company and the agreed amount of the total bill credit from the North Carolina Stipulation Agreement.

Table 1 below provides a comparison of this information for PSNC and SCE&G. Table 2

² Revised Joint Testimony and Exhibits of Michael C. Maness, Jan A. Larsen, James S. McLawhorn, and John R. Hinton, page 12 of 28, North Carolina Docket Nos. E-22, Sub 551 and G-5, Sub 585.

³ Revised Joint Testimony and Exhibits of Michael C. Maness, Jan A. Larsen, James S. McLawhorn, and John R. Hinton, page 13 of 28, North Carolina Docket Nos. E-22, Sub 551 and G-5, Sub 585.

below provides a breakdown of the recommended total bill credit distribution for each of the three (3) years for both PSNC and SCE&G.

Table 1: Comparison of PSNC and SCE&G

Company	Number of Natural Gas Customers	Total Bill Credit
PSNC	563,000	\$3,750,000
SCE&G	368,000	\$2,450,000

Table 2: Total Bill Credit Distribution

Company	Year 1	Year 2	Year 3
PSNC	\$1,250,000	\$1,250,000	\$1,250,000
SCE&G	\$820,000	\$815,000	\$815,000

Q. WILL YOU UPDATE YOUR TESTIMONY BASED ON INFORMATION THAT BECOMES AVAILABLE?

A. Yes. ORS fully reserves the right to revise its recommendations via supplemental testimony should new information become available not previously provided by the Applicants, or from pending state and federal investigations and lawsuits.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes, it does.

**Office of Regulatory Staff
MICHAEL SEAMAN-HUYNH**

EXHIBIT LIST

South Carolina Electric & Gas Company and Dominion Energy, Inc.
Docket No. 2017-370-E

EXHIBIT NUMBER	DESCRIPTION
MSH-1	Docket Nos. E-22, Sub 551 and G-5, Sub 585 Stipulation Agreement
MSH-2	Docket No. 2011-158-E, Commission Order No. 2012-517

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October 4, 2018

VIA ELECTRONIC FILING

Ms. M. Lynn Jarvis, Chief Clerk
North Carolina Utilities Commission
Dobbs Building
430 North Salisbury Street
Raleigh, North Carolina 27603

Re: Docket No. E-22, Sub 551
Docket No. G-5, Sub 585

Dear Ms. Jarvis:

On behalf of the Stipulating Parties, attached for filing in the above-referenced dockets is their Agreement and Stipulation of Settlement Between the Applicants, Transco and the Public Staff.

Should you have any questions, please do not hesitate to contact me. Thank you for your assistance with this matter.

Very truly yours,

/s/Mary Lynne Grigg

MLG:kjg

Enclosure

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. E-22, SUB 551
DOCKET NO. G-5, SUB 585

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of)	AGREEMENT AND STIPULATION OF
Joint Application of Dominion Energy,)	SETTLEMENT BETWEEN THE
Inc. and SCANA Corporation to Engage)	APPLICANTS, TRANSCO AND THE
in a Business Combination Transaction)	PUBLIC STAFF

Dominion Energy, Inc. (“Dominion Energy”) and SCANA Corporation (“SCANA”) (collectively, the “Applicants”), Transcontinental Gas Pipeline Company, LLC (“Transco”) and the Public Staff — North Carolina Utilities Commission, hereinafter referred to as the Stipulating Parties, through counsel and pursuant to N.C. Gen. Stat. § 62-69, respectfully submit this Agreement and Stipulation of Settlement (“Stipulation”) for consideration by the North Carolina Utilities Commission (“Commission”) in the above-captioned proceeding. Dominion Energy, Inc. is the parent of Virginia Electric and Power Company, which does business in North Carolina as “Dominion Energy North Carolina” or “DENC.” SCANA Corporation is the parent of Public Service Company of North Carolina, Inc. or “PSNC.”

The Stipulating Parties agree and stipulate as follows:

1. Regulatory Conditions. The Regulatory Conditions, including the Code of Conduct, set forth in Attachment A represent commitments by the Applicants as a precondition of approval by the Commission of the application of Dominion Energy and SCANA pursuant to N.C. Gen. Stat. § 62-111(a) for authority to engage in the proposed business combination transaction (“Merger”) as set forth in the Merger Agreement attached

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to the application as Exhibit A. These Regulatory Conditions will be incorporated into any order of the Commission approving the Merger. The Stipulating Parties used as a starting point the Regulatory Conditions most recently approved by the Commission in the *Order Approving Merger Subject to Regulatory Conditions and Code of Conduct* issued September 29, 2016, in Docket Nos. E-2, Sub 1095; E-7, Sub 1100; and G-9, Sub 682 (“Duke-Piedmont Merger Order”) and the *Order Granting Motion to Amend Regulatory Conditions* issued August 24, 2018, in Docket Nos. E-2, Sub 1095A; E-7, Sub 1100A; and G-9, Sub 682A.

2. Bill Credits. The Applicants agree that, upon approval of this Stipulation by the Commission, in its entirety, and closing of the Merger, PSNC will create a regulatory liability of \$3.75 million representing a refund to customers of 2017 revenues and will subsequently provide such refund to customers as a bill credit of \$1.25 million on January 1, 2019 or as soon thereafter as practicable, another bill credit of \$1.25 million on January 1, 2020, and a final bill credit of \$1.25 million on January 1, 2021.

3. Charitable Contribution. In 2019, PSNC will increase its charitable contributions over its 2017 contribution by \$150,000. Such contributions shall be used to provide energy assistance for low-income customers in PSNC’s service territory and shall be treated as below-the-line expenses for regulatory accounting, reporting, and ratemaking purposes.

4. Merger-Related Expenses. Direct expenses associated with the Merger will be excluded from the regulated expenses of PSNC and DENC for Commission financial reporting and ratemaking purposes. Merger-Related Expenses include acquisition premiums, change-in-control payments made to terminated executives, regulatory process

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costs, and transaction costs, such as investment banking, legal, accounting, securities issuances, and advisory fees. Integration costs include the integration of financial, IT, human resources, billing, accounting, and telecommunications systems. Other transition costs include severance payments to employees, changes to signage, the cost of transitioning employees to post-merger employee benefit plans, and costs to terminate any duplicative leases, contracts and operations, etc. The Applicants have committed that none of these Merger-Related Expenses will be passed on to the customers of PSNC or DENC, and have also stated that the Merger will not have a net adverse impact on the rates and services of DENC or PSNC. The Applicants further commit to file a report of their accounting for Merger-Related Expenses within 60 days after the close of the Merger, and supplemental reports, as necessary, within 60 days after each calendar year.

5. Rate Moratorium. PSNC will not file an application for a general rate case proceeding to adjust its rates and charges before April 1, 2021. PSNC will not increase its non-gas cost margin in its rates until November 1, 2021, except for the following reasons: (1) adjustments or changes pursuant to Rider C (Customer Usage Tracker), Rider D (Purchased Gas Adjustment Procedures), and Rider E (Integrity Management Tracker) pursuant to N.C. Gen. Stat. § 62-133.4, N.C. Gen. Stat. § 62-133.7, and N.C. Gen. Stat. § 62-133.7A; (2) to reflect the financial impact of governmental action (legislative, executive, or regulatory) having a substantial specific impact on the gas industry generally or on a segment thereof that includes PSNC, including but not limited to major expenditures for environmental compliance; (3) to implement natural gas expansion surcharges imposed pursuant to N.C. Gen. Stat. § 62-158; or (4) to reflect the financial impact of major expenditures associated with force majeure. In addition, PSNC shall not

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file for any cost deferral during or covering any period from the date of an order approving the Merger until after October 31, 2021, except: (1) to reflect the financial impact of governmental action (legislative, executive, or regulatory) having a substantial specific impact on the gas industry generally or on a segment thereof that includes PSNC, including but not limited to major expenditures for environmental compliance; or (2) to reflect the financial impact of major expenditures associated with force majeure. This provision does not indicate that the Public Staff would support, or that the Commission would approve, such cost deferral.

6. Protection Against Debt Downgrade. The Stipulating Parties agree that PSNC and DENC customers will be held harmless from the impacts of debt downgrade as set forth in the Regulatory Conditions.

7. Customer Service. PSNC will maintain current levels of customer service and behavior towards customers, as well as current levels of professional cooperation with regulators, consumer advocates, and intervenors.

8. Cost Saving Opportunities. The electric utility operations of DENC and South Carolina Electric & Gas Company, along with their affiliates and subsidiaries, will look for post-Merger opportunities to engage in joint planning, purchasing, and services that will result in cost savings to DENC's retail electric customers, while not compromising reliability or service quality.

9. Affiliate Agreements. Unless otherwise allowed or ordered by the Commission, no later than March 1, 2019, and in accordance with and as provided by N.C. Gen. Stat. § 62-153 and the related Regulatory Conditions, DENC and PSNC will file any new or amended affiliate agreements with the Commission for use by DENC and PSNC.

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The Stipulating Parties agree that DENC and PSNC may operate, as of the date of the Merger's closing, under the new or amended affiliate agreements until the Commission issues such an order approving or accepting the new or amended affiliate agreements under N.C. Gen. Stat. § 62-153. PSNC and DENC agree and acknowledge that their interim operation under the new or amended affiliate agreements is subject to any fully adjudicated Commission order on the matter. Such services will be provided pursuant to and comply fully with the Code of Conduct approved by the Commission in this proceeding.

10. Approval of Merger. The terms of this Stipulation, including the Regulatory Conditions and Code of Conduct, will ensure that the proposed Merger will have no adverse impact on the rates charged and the service provided by DENC and PSNC to North Carolina jurisdictional ratepayers; that DENC's and PSNC's North Carolina jurisdictional ratepayers are protected and insulated to the maximum extent possible from all known and potential costs and risks associated with the Merger; and that the benefits of the Merger to DENC's, and PSNC's North Carolina jurisdictional ratepayers are sufficient to offset those potential costs and risks. Therefore, the proposed Merger is justified by the public convenience and necessity and meets the standard for approval by the Commission under N.C. Gen. Stat. § 62-111(a).

11. Effectiveness of Agreements. This Stipulation shall be binding upon the parties upon the execution hereof but its substantive terms shall be effective only upon both the approval of the Stipulation, in its entirety, by the Commission and the closing of the Merger contemplated herein. In the event one or both of these conditions fail to occur, the Stipulating Parties agree that the Stipulation shall not be binding upon the Stipulating Parties.

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12. Support of Stipulation. The Stipulating Parties will support this Stipulation, the Regulatory Conditions, and the Code of Conduct in testimony before the Commission and in any proposed order or brief submitted to the Commission in this matter.

13. Waiver of Right to Cross-Examine. The Stipulating Parties will waive their respective rights to cross-examine each other's witnesses with respect to their prefiled testimony and exhibits. If, however, questions should be asked by any person who is not a Stipulating Party, including a member of the Commission, the Stipulating Parties reserve the right to present testimony and exhibits to respond to such questions and cross-examine any witnesses with respect to such testimony and exhibits, provided that such testimony, exhibits, and cross-examination are not inconsistent with this Stipulation.

14. Acceptance of Agreement in Its Entirety. This Stipulation is the product of give-and-take negotiations, and no portion of this Stipulation will be binding on the Stipulating Parties unless the entire Stipulation is accepted by the Commission.

The foregoing is agreed and stipulated to, this the 4th day of October, 2018.

DOMINION ENERGY, INC.

By: Thomas P. Wohlfarth [NAME]
Senior Vice President [TITLE]
Regulatory Affairs

SCANA CORPORATION

By: _____ [NAME]
 _____ [TITLE]

PUBLIC STAFF — NORTH CAROLINA
 UTILITIES COMMISSION

By: _____ [NAME]
 _____ [TITLE]

TRANSCONTINENTAL GAS PIPE LINE
 COMPANY, LLC

By: _____ [NAME]
 _____ [TITLE]

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By: _____
 _____ [NAME]
 _____ [TITLE]


DOMINION ENERGY, INC.

By: _____
 _____ [NAME]
 _____ [TITLE]

SCANA CORPORATION

By: _____
 _____ [NAME]
 _____ [TITLE]

PUBLIC STAFF — NORTH CAROLINA
UTILITIES COMMISSION

By: 
Christopher J. Ayers
Executive Director

TRANSCONTINENTAL GAS PIPE LINE
COMPANY, LLC

By: _____
 _____ [NAME]
 _____ [TITLE]

By: Gary M. Duvall
Gary M. Duvall
Vice President

Stipulation Attachment A

DOCKET NO. E-22, SUB 551
DOCKET NO. G-5, SUB 585

REGULATORY CONDITIONS

These Regulatory Conditions set forth commitments made by Dominion Energy and SCANA, and their public utility subsidiaries, DENC and PSNC, respectively, as a precondition of approval of the application by Dominion Energy and SCANA pursuant to G.S. 62-111(a) for authority to engage in their proposed business combination transaction. These Regulatory Conditions, which become effective only upon closing of the Merger, shall apply jointly and severally to Dominion Energy and SCANA, as well as DENC and PSNC and shall be interpreted in the manner that most effectively fulfills the Commission's purposes as set forth in the preamble to Section II of these Regulatory Conditions.

**SECTION I
DEFINITIONS**

For the purposes of these Regulatory Conditions, capitalized terms shall have the meanings set forth below. If a capitalized term is not defined below, it shall have the meaning provided elsewhere in this document or as commonly used in the electric or natural gas utility industry.

Affiliate: Dominion Energy, and any business entity of which ten percent (10%) or more is owned or controlled, directly or indirectly, by Dominion Energy. For purposes of these Regulatory Conditions, Dominion Energy and each business entity so controlled by it are considered to be Affiliates of DENC and PSNC, and DENC and PSNC are considered to be Affiliates of each other.

Affiliate Contract: (a) Any contract or agreement between DENC and PSNC or between DENC or PSNC and any other Affiliate or proposed Affiliate, and (b) any contract or agreement between such other Affiliate or proposed Affiliate and another Affiliate that is related to the same subject matter and is reasonably likely to have an Effect on DENC's or PSNC's Rates or Service. Such contracts and agreements include, but are not limited to, service, operating, interchange, pooling, and wholesale power sales agreements and agreements involving financings and asset transfers and sales.

Code of Conduct: The minimum guidelines and rules approved by the Commission that govern the relationships, activities, and transactions between and among the public utility operations of DENC and PSNC, Dominion Energy and SCANA, the other Affiliates of DENC and PSNC, and the Nonpublic Utility Operations of DENC and PSNC, as those guidelines and rules may be amended by the Commission from time to time.

Commission: The North Carolina Utilities Commission.

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CNG: Consolidated Natural Gas Company, which merged with Dominion Resources, Inc. (now Dominion Energy) in 1999 as approved by the Commission in Docket No. E-22, Sub 380.

Customer: Any retail electric customer of DENC in North Carolina and any Commission-regulated natural gas sales or natural gas transportation customer of PSNC located in North Carolina.

DENC: Virginia Electric and Power Company, d/b/a Dominion Energy North Carolina, the business entity, wholly owned by Dominion Energy, that holds the franchises granted by the Commission to provide Electric Services within its North Carolina service territory and that engages in public utility operations, as defined in G.S. 62-3(23), within the State of North Carolina. DENC refers to the system business and operation of Virginia Electric and Power Company, and not simply the North Carolina retail assigned or allocated portions of that business and operation.

Dominion Energy: Dominion Energy, Inc., which is the current holding company parent of DENC and PSNC, and any successor company.

Effect on DENC's or PSNC's Rates or Service: When used with reference to the consequences to DENC or PSNC of actions or transactions involving an Affiliate or Nonpublic Utility Operation, this phrase has the same meaning that it has when the Commission interprets G.S. 62-3(23)(c) with respect to the affiliation covered therein.

Electric Services: Commission-regulated electric power generation, transmission, distribution, delivery, and retail sales, and other related services, including, but not limited to, administration of Customer accounts and rate schedules, metering, billing, standby service, backups, and changeovers of electric service to other suppliers.

Federal Law: Any federal statute or legislation, or any regulation, order, decision, rule or requirement promulgated or issued by an agency or department of the federal government.

FERC: The Federal Energy Regulatory Commission.

Fully Distributed Cost: All direct and indirect costs, including overheads and an appropriate cost of capital, incurred in providing the goods and services in question.

Joint Owners: Old Dominion Electric Cooperative (ODEC), with respect to its ownership interests in the North Anna Nuclear Station and the Clover Power Station, and First Energy, with regard to its ownership interest in the Bath County Pumped Storage Station. For purposes of these Regulatory Conditions, DENC is not included in the definition of Joint Owners. Also, for purposes of

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these Regulatory Conditions, Joint Owners include any successors and assigns to ODEC and First Energy.

Market Value: The price at which property, goods, or services would change hands in an arm's-length transaction between a buyer and a seller without any compulsion to engage in a transaction, and both having reasonable knowledge of the relevant facts.

Merger: All transactions contemplated by the Agreement and Plan of Merger between Dominion Energy and SCANA.

Merger-Related Expenses: Merger-Related Expenses include acquisition premiums, change-in-control payments made to terminated executives, regulatory process costs, and transaction costs, such as investment banking, legal, accounting, securities issuances and advisory fees. Integration costs include the integration of financial, IT, human resources, billing, accounting, and telecommunications systems. Other transition costs include severance payments to employees, changes to signage, the cost of transitioning employees to post-merger employee benefit plans, and costs to terminate any duplicative leases, contracts and operations, etc.

Native Load Priority: Power supply service being provided or electricity otherwise being sold with a priority of service equivalent to that planned for and provided by DENC to its respective Retail Native Load Customers.

Natural Gas Services: Commission-regulated natural gas sales and natural gas transportation, and other related services, including, but not limited to, administration of Customer accounts and rate schedules, metering and billing, and standby service.

Nonpublic Utility Operations: All business operations engaged in by DENC or PSNC involving activities (including the sales of goods or services) that are not regulated by the Commission or otherwise subject to public utility regulation at the state or federal level.

Non-Utility Affiliate: Any Affiliate, including Service Company, other than a Utility Affiliate, DENC, or PSNC.

PSNC: Public Service Company of North Carolina, Inc., the business entity, wholly owned by Dominion Energy and SCANA, that holds the franchise granted by the Commission to provide Natural Gas Services within its North Carolina service territory and that engages in public utility operations, as defined in G.S. 62-3(23), within the State of North Carolina.

Public Staff: The Public Staff of the North Carolina Utilities Commission.

Purchased Power Resources: Purchases of energy by DENC at wholesale, the contract terms for which are one year or longer.

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Retail Native Load Customers: The captive retail Customers of DENC in North Carolina for which DENC has the obligation under North Carolina law to engage in long-term planning and to supply all Electric Services, including installing or contracting for capacity, if needed, to reliably meet their electricity needs.

Retained Earnings: The retained earnings currently required to be listed on page 112, line 11, of the pre-Merger DENC FERC Form 1 and page 112, line 11 of the pre-Merger PSNC FERC Form 2.

SCANA: SCANA Corporation, which is the former and current direct holding company parent of PSNC and is a subsidiary of Dominion Energy, and any successors.

Service Company: A centralized service company Affiliate that provides Shared Services to DENC, PSNC, other Affiliates, and/or the Nonpublic Utility Operations of DENC or PSNC, singly or in any combination.

Shared Services: The services that meet the requirements of these Regulatory Conditions and that the Commission has explicitly authorized DENC and PSNC to take from the Service Company pursuant to a service agreement (a) filed with the Commission pursuant to G.S. 62-153(b), thus requiring acceptance and authorization by the Commission, and (b) subject to all other applicable provisions of North Carolina law, the rules and orders of the Commission, and these Regulatory Conditions.

Utility Affiliates: The regulated public utility operations of the East Ohio Gas Company (Dominion Energy Ohio), Hope Gas, Inc. (Dominion Energy West Virginia), Questar Gas Company (Dominion Energy Utah, Dominion Energy Wyoming, and Dominion Energy Idaho), and South Carolina Electric & Gas Company (SCE&G).

SECTION II AUTHORITY, SCOPE, AND EFFECT

These Regulatory Conditions are based on the general power and authority granted to the Commission in Chapter 62 of the North Carolina General Statutes to control and supervise the public utilities of the State. The Regulatory Conditions address specific exercises of the Commission's authority and provide mechanisms that enable the Commission to determine the extent of its authority and jurisdiction over proposed activities of, and transactions involving, DENC, PSNC, Dominion Energy, and other Affiliates or Nonpublic Utility Operations. The purpose of these Regulatory Conditions is to ensure that DENC's Retail Native Load Customers and PSNC's Customers (a) are protected from any known adverse effects from the Merger, (b) are protected as much as possible from potential costs and risks resulting from the Merger, and (c) receive sufficient known and expected benefits to offset any potential costs and risks resulting from the Merger. These Regulatory

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Conditions are not intended to impose legal obligations on entities in which Dominion Energy does not directly or indirectly have a controlling voting interest, or to affect any rights of any party to participate in subsequent proceedings.

- 2.1 Commission Authority Over Certain Transactions. DENC, PSNC, Dominion Energy, and other Affiliates acknowledge that the Commission has authority over intra-company transactions as provided for in Chapter 62.
- 2.2 Limited Right to Challenge Commission Orders. Other than as provided for, or explicitly prohibited, in these conditions, Dominion Energy, DENC, PSNC, and other Affiliates retain the right to challenge the lawfulness of any Commission order issued pursuant to or relating to these Regulatory Conditions on the basis that such order exceeds the Commission's statutory authority under North Carolina or Federal Law or the other grounds listed in G.S. 62-94(b).
- 2.3 Waiver Requests. DENC, PSNC, Dominion Energy, and other Affiliates may seek a waiver of any aspect of these Regulatory Conditions in a particular case or circumstance for good cause shown by filing such a request with the Commission.

SECTION III PROTECTION OF RIGHTS

The following Regulatory Conditions are intended to protect the jurisdiction of the Commission as a result of the Merger, including risks related to agreements and transactions between and among DENC, PSNC, and any of their Affiliates; financing transactions involving Dominion Energy, DENC or PSNC, and any other Affiliate; and the ownership, use, and disposition of assets by DENC or PSNC.

- 3.1 Transactions between DENC, PSNC, and Other Affiliates; Notice of Affiliate Contracts to be Filed with the FERC.
 - (a) DENC and PSNC shall not engage in any transactions with Affiliates or proposed Affiliates without first filing the proposed contracts or agreements memorializing such transactions pursuant to G.S. 62-153 and taking such actions and obtaining from the Commission such determinations and authorizations as may be required under North Carolina law. DENC or PSNC, as applicable, shall submit each proposed Affiliate Contract or substantive amendment to an existing Affiliate Contract to the Public Staff for informal review at least 15 days before filing it with the Commission. If DENC or PSNC and the Public Staff agree within the 15-day period that the proposed Affiliate Contract or substantive amendment to an existing Affiliate Contract does not require any action by the Commission, DENC or PSNC may proceed to execute the

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agreement subject to later disapproval and avoidance by the Commission pursuant to G.S. 62-153(a). Otherwise, the proposed Affiliate Contract or substantive amendment to an existing Affiliate Contract shall not be executed until the agreement has been filed and payment of compensation has been approved by the Commission pursuant to G.S. 62-153(b).

- (b) In addition to the requirements of Regulatory Condition 3.1(a), for any contract requiring filing with FERC, DENC or PSNC shall file, for informational purposes, a copy of a proposed Affiliate Contract, a contract with a proposed Affiliate, or an amendment to an existing Affiliate Contract with the Commission at least 15 days prior to filing with FERC.

3.2 Financing Transactions Involving DENC, PSNC, Dominion Energy, or Other Affiliates.

- (a) With respect to any financing transaction between or among DENC or PSNC and Dominion Energy or any one or more other Affiliates, any contract memorializing such transaction shall expressly provide that DENC or PSNC shall not enter into any such financing transaction except in accordance with North Carolina law and the rules, regulations, and orders of the Commission promulgated thereunder; and
- (b) With respect to any financing transaction (i) between or among any of the Affiliates if such contracts are reasonably likely to have an Effect on DENC's or PSNC's Rates or Service, or (ii) between DENC and PSNC or between DENC or PSNC and any other Affiliate, any contract memorializing such transaction shall expressly provide that DENC or PSNC shall not include the effects of any capital structure or debt or equity costs associated with such financing transaction in its North Carolina retail cost of service or rates except as allowed by the Commission.

3.3 Ownership and Control of Assets Used by DENC and PSNC to Supply Electric Power or Natural Gas Services to North Carolina Customers; Transfer of Ownership or Control.

- (a) DENC and PSNC shall own and control all assets or portions of assets used for the generation, transmission, and distribution of electric power or the transmission, storage, or distribution of natural gas to their respective Customers (with the exception of assets both (1) not otherwise owned or controlled by DENC or PSNC and (2) used to provide power purchased by DENC at wholesale or natural gas transportation to PSNC). This paragraph 3.3(a) shall also not

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apply to the ordinary course of the operation of DENC's transmission assets in accordance with its membership in PJM, Inc.

- (b) With respect to the voluntary transfer by DENC or PSNC to Nonpublic Utility Operations, an Affiliate, and/or a non-Affiliate, of the control of, operational responsibility for, or ownership of any asset or portion thereof used for the transmission, distribution, generation, or other provision of electric power and/or service, or natural gas service, to customers in North Carolina:
 - (i) DENC or PSNC shall provide written notice to the Commission at least 30 days in advance of any proposed transfer falling under Section 3.3(b) with a net book value in excess of ten million dollars (\$10 million). The provisions of Regulatory Condition 13.2 shall apply to an advance notice filed pursuant to this Regulatory Condition. DENC or PSNC shall not commit to or carry out such a transfer except in accordance with North Carolina law and the rules, regulations, and orders of the Commission promulgated thereunder; and
 - (ii) DENC or PSNC may not include in rates the value of any such transfer, except as allowed by the Commission in accordance with North Carolina law.

3.4 Purchases and Sales of Electricity and Natural Gas between DENC, PSNC, SCANA, Dominion Energy, Other Affiliates, or Nonpublic Utility Operations.

Subject to additional restrictions set forth in the Code of Conduct, neither DENC or PSNC shall purchase electricity (or related ancillary services) or natural gas from Dominion Energy, another Affiliate, or a Nonpublic Utility Operation under circumstances where the total all-in costs, including generation, transmission, ancillary costs, distribution, taxes and fees, and delivery point costs, incurred (whether directly or through allocation), based on information known, anticipated, or reasonably available at the time of purchase, exceed fair Market Value for comparable service, nor shall DENC or PSNC sell electricity (or related ancillary services) or natural gas to Dominion Energy, another Affiliate, or a Nonpublic Utility Operation for less than fair Market Value; provided, however, that such restrictions shall not apply to emergency transactions.

- 3.5 Least Cost Integrated Resource Planning and Resource Adequacy. DENC shall retain the obligation to pursue least cost integrated resource planning for its regulated electric Customers and remain responsible for its own resource adequacy subject to Commission oversight in accordance with North Carolina law. DENC shall determine the appropriate self-built or purchased power resources to be used to provide future generating capacity and energy to its regulated electric Customers, including the siting

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considered appropriate for such resources, on the basis of the benefits and costs of such siting and resources to those regulated electric Customers.

- 3.6 Native Load Service. DENC shall continue to serve its Retail Native Load Customers with the lowest-cost power it can generate or purchase from other sources in order to meet its native load requirements in accordance with Condition No. 11.1 before making power available to customers that are not entitled to the same level of priority as Retail Native Load Customers. Before DENC executes any contract that grants Native Load Priority to a wholesale customer or to one or more retail customers of another entity, it shall, for informational purposes, provide the Public Staff with at least 15 days' written advance notice of its intent to grant Native Load Priority and to treat the retail native load of a proposed wholesale customer as if it were DENC's retail native load pursuant to this subsection and subsection 3.5.
- 3.7 Additional Provisions Regarding Wholesale Contracts Entered into by DENC as Seller.
- (a) This Regulatory Condition does not apply to PSNC.
 - (b) The Commission retains the right to assign, allocate, impute, and make pro-forma adjustments with respect to the revenues and costs for retail ratemaking and regulatory accounting and reporting purposes.
 - (c) DENC acknowledges that when it enters into wholesale contracts that obligate DENC to construct generating facilities or make commitments to purchase capacity and energy to meet those contractual commitments such action constitutes acceptance by DENC, Dominion Energy, and other Affiliates or Nonpublic Utility Operations thereof of the risks that investments in generating facilities or commitments to purchase capacity and energy to meet such contractual commitments and maintain an adequate reserve margin throughout the term of such contracts may become uneconomic sunk costs that may not be recoverable from DENC's Retail Native Load Customers. In a future Commission retail proceeding in which cost recovery is at issue, DENC shall not claim that it does not bear this risk, and DENC shall acknowledge that the Commission retains full authority under Chapter 62 to ascertain whether such costs are used and useful. For purposes of this condition, capacity will be considered used and useful and not excess capacity to the extent the Commission determines such capacity is needed by DENC to meet the expected peak loads of DENC's retail Retail Native Load Customers in the near term future plus a reserve margin comparable to that currently being used or otherwise considered appropriate by the Commission. Neither

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DENC, Dominion Energy, nor any other Affiliate shall assert in any forum – whether judicial, administrative, federal, state, local or otherwise – either on its own initiative or in support of any other entity's assertions that the Commission is preempted from taking the actions contemplated in this subsection.

- (d) Except as provided in the foregoing conditions, DENC retains the right to challenge the lawfulness of any order issued by the Commission in connection with the assignment, allocation, imputation, pro-forma adjustments to, or disallowances of the revenues and costs associated with DENC's wholesale contracts for retail ratemaking and regulatory accounting and reporting purposes on any other grounds, including but not limited to the rights outlined in G.S. 62-94(b).

3.8 Other Protections.

- (a) DENC, PSNC, Dominion Energy, another Affiliate, and a Nonpublic Utility Operation shall not assert in any forum - whether judicial, administrative, federal, state, local or otherwise - that the Commission's authority to determine the reasonableness or prudence of DENC's or PSNC's decisions with respect to supply-side resources, demand-side management, or any other aspect of resource adequacy is limited.
- (b) Any contract or filing regarding DENC's withdrawal from an RTO or comparable entity must be contingent upon state regulatory approval. This Regulatory Condition does not apply to PSNC.
- (c) DENC and PSNC shall obtain Commission approval before the Service Company is sold, transferred, merged with any other entities, has any ownership interest therein changed, or otherwise changed so that a change of control could occur. This requirement does not apply to any movement of the Service Company within the Dominion Energy holding company system that does not constitute a change of control.
- (d) DENC and PSNC may participate in joint comments and other joint filings with Affiliates only when such participation fully complies with both the letter and the spirit of the Regulatory Conditions. Any filing made by the Service Company on behalf of DENC or PSNC must clearly identify the Service Company as an agent of DENC or PSNC for purposes of making the filing.
- (e) Neither DENC, PSNC, Dominion Energy, another Affiliate, nor a Nonpublic Utility Operation shall make any assertion or argument either on its own initiative or in support of any other entity's assertions

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in any forum - whether judicial, administrative, federal, state, or otherwise - with respect to any contract, transaction, or other matter in which DENC or PSNC is involved or proposes to be involved or any contract, transaction, or matter involving or proposed to involve Dominion Energy, any other Affiliate, or any Nonpublic Utility Operation that may have an Effect on DENC's or PSNC's Rates or Service, that any of the following actions exceed the Commission's power, authority or jurisdiction under North Carolina law:

- (i) reviewing the reasonableness of any Affiliate commitment entered into or proposed to be entered into by DENC or PSNC, or disallowing the costs of, or imputing revenues related to such commitment to, DENC or PSNC;
- (ii) exercising its authority over financings or setting rates based on the capital structure, corporate structure, debt costs, or equity costs that it finds to be appropriate for retail ratemaking purposes;
- (iii) reviewing the reasonableness of any commitment entered into or proposed to be entered into by DENC or PSNC to transfer an asset;
- (iv) mandating, approving, or otherwise regulating a transfer of assets by or to DENC or PSNC;
- (v) scrutinizing and establishing the value of any asset transfers for the purpose of determining the rates for services rendered to DENC's Retail Native Load Customers or PSNC's Customers; or
- (vi) exercising any other lawful authority it may have.

Should any other entity so assert, neither DENC, PSNC, Dominion Energy, other Affiliates, nor the Nonpublic Utility Operations shall support any such assertion and shall, promptly upon learning of such assertion, advise and consult with the Commission and the Public Staff regarding such assertion.

- (f) DENC, PSNC, Dominion Energy, and any other Affiliates, and the Nonpublic Utility Operations shall (A) acknowledge the risk of any possible preemptive effects of Federal Law with respect to any contract, transaction, or commitment entered into or made or proposed to be entered into or made by DENC or PSNC, or which may otherwise affect DENC's or PSNC's operations, service, or rates and (B) shall take all actions as may be reasonably necessary and appropriate to hold North Carolina ratepayers harmless from rate

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increases, foregone opportunities for rate decreases or any other adverse effects of such preemption.

- 3.9 FERC Filings and Orders. In addition to the filing requirements of Commission Rule R8-27 and all other applicable statutes and rules, and to keep the Commission informed of its activities, DENC shall, on a quarterly basis, file with the Commission the following: (a) a list of all active dockets at the FERC, including a sufficient description to identify the type of proceeding, in which DENC, Dominion Energy, or the Service Company on behalf of DENC or Dominion Energy is a party, with new information in each quarterly filing tracked; and (b) a list of the periodic reports filed by DENC, Dominion Energy, or the Service Company on behalf of DENC or Dominion Energy with the FERC, including sufficient information to identify the subject matter of each report and how each report can be accessed. These filings shall be made in Docket No. E-22, Sub 551D and updated regularly. In addition, DENC shall serve on the Public Staff all of its FERC filed cost-based and market-based wholesale agreements and amendments; interconnection agreements and amendments for all generation facilities in DENC's North Carolina retail service territory and all generation facilities 20 megawatts or greater in size in the remainder of DENC's service territory; and any other filings made by DENC, Dominion Energy, or the Service Company on behalf of DENC or Dominion Energy with the FERC, to the extent these other filings are reasonably likely to have an Effect on DENC's Rates or Service. This Regulatory Condition does not apply to PSNC, as relevant FERC-related information is required to be filed with the Commission in annual gas cost prudence reviews.

SECTION IV TREATMENT OF AFFILIATE COSTS AND RATEMAKING

The following Regulatory Conditions are intended to ensure that the costs incurred by DENC and PSNC are properly incurred, accounted for, and directly charged, directly assigned, or allocated to their respective North Carolina retail operations and that only costs that produce benefits to DENC's Retail Native Load Customers and PSNC's Customers are included in DENC's and PSNC's North Carolina cost of service for ratemaking purposes. The procedures set forth in Regulatory Condition 13.2 do not apply to an advance notice filed pursuant to Regulatory Condition 4.5.

- 4.1 Access to Books and Records. In accordance with North Carolina law, the Commission and the Public Staff shall continue to have access to the books and records of DENC, PSNC, Dominion Energy, other Affiliates, and the Nonpublic Utility Operations.
- 4.2 Procurement or Provision of Goods and Services by DENC or PSNC from or to Affiliates or Nonpublic Utility Operations. Except as to transactions between and among DENC and PSNC pursuant to filed and approved

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service agreements and lists of services, and subject to additional provisions set forth in the Code of Conduct, DENC and PSNC shall take the following actions in connection with procuring goods and services for their respective utility operations from Affiliates or Nonpublic Utility Operations and providing goods and services to Affiliates or Nonpublic Utility Operations:

- (a) DENC and PSNC each shall seek out and buy all goods and services from the lowest cost qualified provider of comparable goods and services, and shall have the burden of proving that any and all goods and services procured from their Utility Affiliates, Non-Utility Affiliates, and Nonpublic Utility Operations have been procured on terms and conditions comparable to the most favorable terms and conditions reasonably available in the relevant market, which shall include a showing that comparable goods or services could not have been procured at a lower price from qualified non-Affiliate sources or that DENC or PSNC could not have provided the services or goods for itself on the same basis at a lower cost. To this end, no less than every four years DENC and PSNC shall perform comprehensive non-solicitation based assessments at a functional level of the market competitiveness of the costs for goods and services they receive from a Utility Affiliate, the Service Company, another Non-Utility Affiliate, and a Nonpublic Utility Operation, including periodic testing of services being provided internally or obtained individually through outside providers. To the extent the Commission approves the procurement or provision of goods and services between or among DENC, PSNC, and the Utility Affiliates, those goods and services may be provided at the supplier's Fully Distributed Cost.
- (b) To the extent they are allowed to provide such goods and services, DENC and PSNC shall have the burden of proving that all goods and services provided by either of them to Dominion Energy, a Non-Utility Affiliate, any other Affiliate, or a Nonpublic Utility Operation have been provided on the terms and conditions comparable to the most favorable terms and conditions reasonably available in the market, which shall include a showing that such goods or services have been provided at the higher of cost or market price. To this end, no less than every four years DENC and PSNC shall perform comprehensive, non-solicitation based assessments at a functional level of the market competitiveness of the costs for goods and services provided by either of them to a Utility Affiliate, the Service Company, another Non-Utility Affiliate, any other Affiliate, and a Nonpublic Utility Operation.
- (c) The periodic assessments required by subdivisions (a) and (b) of this subsection may take into consideration qualitative as well as quantitative factors. To the extent that comparable goods or services

provided to DENC or PSNC, or by DENC or PSNC are not commercially available, this Regulatory Condition shall not apply.

4.3 Location of Core Utility Functions.

- (a) This Regulatory Condition does not apply to PSNC.
- (b) Core utility functions are those functions related to Electric Services. Core utility functions do not include services of a governance or corporate type nature that have been traditionally provided by a service company, the specific services listed on the service company agreement services list for DENC filed with the Commission pursuant to Regulatory Condition 4.4(a), and roles that provide oversight to the enterprise and are not jurisdiction-specific (Excluded Functions). DENC shall annually review core utility function employees charging more or less than 50% of their time to DENC over a six-month period from January 1 to June 30. DENC shall annually file, on or before January 1, a report containing the results of the annual review. DENC may file a list of employees at the higher levels of management (not including those levels of management that report directly to the Chief Executive Officer for Dominion Energy) for their core utility functions that they propose to be Service Company employees in their annual filing. DENC shall also include in its annual filing a list of any DENC employee positions or functions that have been transferred to the Service Company, Dominion Energy, or another Affiliate during the preceding year, and the reason(s) for each transfer. DENC shall meet with the Public Staff no later than March 31 of each year, beginning in 2020, to review the results of the annual reviews and, to the extent necessary, develop a proposal for any appropriate modifications to this Condition 4.3.

4.4 Service Agreements and Lists of Services.

- (a) DENC and PSNC shall file pursuant to G.S. 62-153 final proposed service agreements that authorize the provision and receipt of non-power goods or services between and among DENC, PSNC, or their Affiliates, the list(s) of goods and services that DENC and PSNC each intend to take from the Service Company, the list(s) of goods and services DENC and PSNC intend to take from each other and the Utility Affiliates, and the basis for the determination of such list(s) and the elections of such services. All such lists that involve payment of fees or other compensation by DENC or PSNC shall require acceptance and authorization by the Commission, and shall be subject to any other Commission action required or authorized by North Carolina law and the Rules and orders of the Commission.

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- (b) DENC and PSNC shall take goods and services from an Affiliate only in accordance with the filed service agreements and approved list(s) of services. DENC and PSNC shall file notice with the Commission in Docket Nos. E-22, Sub 551A and G-5, Sub 585A, respectively, at least 15 days prior to making any proposed changes to the service agreements or to the lists of services.

4.5 Charges for and Allocations of the Costs of Affiliate Transactions. To the maximum extent practicable, all costs of Affiliate transactions shall be directly charged. When not practicable, such costs shall be assigned in proportion to the direct charges. If such costs are of a nature that direct charging and direct assignment are not practicable, they shall be allocated in accordance with Commission-approved allocation methods. The following additional provisions shall apply:

- (a) DENC and PSNC shall keep on file with the Commission a cost allocation manual (CAM) with respect to goods or services provided by DENC or PSNC, any Utility Affiliate, the Service Company, any other Non-Utility Affiliate, Dominion Energy, any other Affiliates, or any Nonpublic Utility Operation to DENC or PSNC. PSNC will adopt DENC's CAM.
- (b) The CAM shall describe how all directly charged, direct assignment, and other costs for each provider of goods and services will be charged between and among DENC, PSNC, their Utility Affiliates, Non-Utility Affiliates, Dominion Energy, any other Affiliates, and the Nonpublic Utility Operations, and shall include a detailed review of the common costs to be allocated and the allocation factors to be used.
- (c) The CAM shall be updated annually, and the revised CAM shall be filed with the Commission no later than March 31 of the year that the CAM is to be in effect. DENC and PSNC shall review the appropriateness of the allocation bases every two years, and the results of such review shall be filed with the Commission. Interim changes shall be made to the CAM, if and when necessary, and shall be filed with the Commission, in accordance with Regulatory Condition 4.5.
- (d) No changes shall be made to the procedures for direct charging, direct assigning, or allocating the costs of Affiliate transactions or to the method of accounting for such transactions associated with goods and services (including Shared Services provided by the Service Company) provided to or by Dominion Energy, other Affiliates, and the Nonpublic Utility Operations until DENC or PSNC has given 15 days' notice to the Commission of the proposed changes, in accordance with Regulatory Condition 4.5.

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- 4.6 Procedures Regarding Interim Changes to the CAM or Lists of Goods and Services for which 15 Days' Notice is Required. With respect to interim changes to the CAM or changes to lists of goods and services, for which the 15 day notice to the Commission is required, the following procedures shall apply: the Public Staff shall file a response and make a recommendation as to how the Commission should proceed before the end of the notice period. If the Commission has not issued an order within 30 days of the end of the notice period, DENC or PSNC may proceed with the changes but shall be subject to any fully adjudicated Commission order on the matter. The provisions of Regulatory Condition 13.2 do not apply to advance notices filed pursuant to Regulatory Condition 4.4(c) and (d). Such advance notices shall be filed in Docket Nos. E-22, Sub 551A and G-5, Sub 585A.
- 4.7 Annual Reports of Affiliate Transactions. DENC and PSNC shall file annual report(s) of affiliated transactions with the Commission in a format to be prescribed by the Commission in Docket Nos. E-22, Sub 551A and G-5, Sub 585A. The report(s) shall be filed on or before May 30 of each year, for activity through December 31 of the preceding year. DENC, PSNC, and other parties may propose changes to the required affiliated transaction reporting requirements and submit them to the Commission for approval, also in Docket Nos. E-22, Sub 551A and G-5, Sub 585A.
- 4.8 Ongoing Review by Commission.
- (a) The services rendered by DENC and PSNC to their Affiliates and Nonpublic Utility Operations and the services received by DENC or PSNC from their Affiliates and Nonpublic Utility Operations pursuant to the filed service agreements, the costs and benefits assigned or allocated in connection with such services, and the determination or calculation of the bases and factors utilized to assign or allocate such costs and benefits, as well as DENC's and PSNC's compliance with the Commission-approved Code of Conduct and all Regulatory Conditions, shall remain subject to ongoing review. These agreements shall be subject to any Commission action required or authorized by North Carolina law and the Rules and orders of the Commission.
 - (b) The service agreements, the CAM and the assignments and allocations of costs pursuant thereto, the biannual allocation factor reviews required by Regulatory Condition 4.4(c), the list(s) and the goods and services provided pursuant thereto, and any changes to these documents shall be subject to

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ongoing Commission review, and Commission action if appropriate.

- 4.9 Future Orders. For the purposes of North Carolina retail accounting, reporting, and ratemaking, the Commission may, after appropriate notice and opportunity to be heard, issue future orders relating to DENC's or PSNC's cost of service as the Commission may determine are necessary to ensure that DENC's and PSNC's operations and transactions with their Affiliates and Nonpublic Utility Operations are consistent with the Regulatory Conditions and Code of Conduct, and with any other applicable decisions of the Commission.
- 4.10 Review by the FERC. Notwithstanding any of the provisions contained in these Regulatory Conditions, to the extent the allocations adopted by the Commission when compared to the allocations adopted by the other State commissions with ratemaking authority as to a Utility Affiliate of DENC or PSNC result in significant trapped costs related to "non-power goods or administrative or management services provided by an associate company organized specifically for the purpose of providing such goods or services to any public utility in the same holding company system," including DENC and PSNC, DENC or PSNC may request pursuant to Section 1275(b) of Subtitle F in Title XII of the Energy Policy Act of 2005 that the FERC "review and authorize the allocation of the costs for such goods and services to the extent relevant to that associate company." Such review and authorization shall have whatever effect it is determined to have under the law. The quoted language in this Regulatory Condition is taken directly from Section 1275(b) of Subtitle F in Title XII of the Energy Policy Act of 2005. The terms "associate company" and "holding company system" are defined in Sections 1262(2) and 1262(9), respectively, of Subtitle F in Title XII of the Energy Policy Act of 2005 and have the same meanings for purposes of this condition.
- 4.11 Biannual Review of Certain Transactions by Internal Auditors. At least biannually, Dominion Energy shall conduct an internal audit to review the affiliate transactions undertaken pursuant to Affiliate agreements filed in accordance with Regulatory Condition 4.4 and of DENC's compliance with all conditions approved by the Commission concerning Affiliate transactions, including the propriety of the transfer pricing of goods and services between or among DENC, PSNC, other Affiliates, and all of the Nonpublic Utility Operations. The first audit shall begin two years from the date of the close of the Merger. It shall include whether DENC's and PSNC's transactions, services, and other Affiliate dealings pursuant to the regulated utility-to-regulated utility service agreement and any other utility to utility agreements are consistent with all of the conditions related to affiliate dealings and the Code of Conduct and whether DENC and PSNC have operated in accordance with those conditions and Code of Conduct. The second audit shall begin two years from the date of the Commission's

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order on the internal auditor's final report on the first audit or, if no such order is issued, two years from the date of such final report. It shall include whether DENC's and PSNC's transactions, services, and other Affiliate dealings pursuant to the Service Company Utility Service Agreement and other Affiliate transactions other than transactions undertaken pursuant to regulated utility to regulated utility service agreements are consistent with all of the conditions related to affiliate dealings and the Code of Conduct and whether DENC and PSNC have operated in accordance with those conditions and Code of Conduct. Thereafter, internal audits shall occur every two years from the date of the Commission's order on the immediately preceding auditor's final report or, if no such order is issued, two years from the date of such final report. The subject matter of these audits shall alternate between the subject matters for the first and second internal audits. DENC and PSNC may request a change in the frequency of the audit reports in future years, subject to approval by the Commission. Such biannual reviews shall also address transactions between DENC or PSNC and Dominion Energy, other Affiliates, and the Nonpublic Utility Operations, transactions between DENC and PSNC, and other transactions between or among Affiliates if such transactions are reasonably likely to have a significant Effect on DENC's or PSNC's Rates or Service. To the extent external audits of the transactions are conducted, DENC and PSNC shall make available such audits for review by the Public Staff and the Commission. DENC and PSNC also shall make available for review by the Public Staff and the Commission all workpapers relating to internal audits and all other internal audit workpapers, if any, related to affiliate transactions, and shall not oppose Public Staff and Commission requests to review relevant external audit workpapers. Neither DENC, PSNC, Dominion Energy, any other Affiliate, nor any Nonpublic Utility Operation shall assert the attorney-client privilege for any internal audit report or workpaper, any portion of such report or workpaper, or any support requested by the Public Staff or Commission with regard to such report or workpaper, with regard to the internal audits required by this paragraph.

- 4.12 Notice of DENC, PSNC, Dominion Energy, and Service Company and Non-Utility Affiliates FERC Audits. At such time as DENC, PSNC, Dominion Energy, or the Service Company receives notice from the FERC related to an audit of any Affiliate DENC or PSNC, DENC or PSNC shall promptly file a notice with the Commission that such an audit will be commencing. Any initial report of the FERC's audit team shall be provided to the Public Staff, and any final report shall be filed with the Commission in Docket Nos. E-22, Sub 551E and G-5, Sub 585E, respectively.
- 4.13 Acquisition Adjustment. Any acquisition adjustment that results from the Merger shall be excluded from DENC's and PSNC's utility accounts and treated for regulatory accounting, reporting, and ratemaking purposes so that it does not affect DENC's North Carolina retail rates and charges for

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Electric Services or PSNC's North Carolina rates and charges for Natural Gas Services.

- 4.14 Non-Consummation of Merger. If the Merger is not consummated, neither the cost, nor the receipt, of any termination payment between Dominion Energy and PSNC shall be allocated to DENC or PSNC or recorded on their books. DENC's Retail Native Load Customers or PSNC's Customers shall not otherwise bear any direct expenses or costs associated with a failed merger.
- 4.15 Protection from Commitments to Wholesale Customers.
- (a) This Regulatory Condition does not apply to PSNC.
 - (b) For North Carolina retail electric cost of service/ratemaking purposes, DENC's electric system costs shall be assigned or allocated between and among retail and wholesale jurisdictions based on reasonable and appropriate cost causation principles, taking into consideration the Commission's findings and conclusions regarding the costs associated with DENC's membership in PJM, Inc., set forth in the Commission's Dec. 22, 2016, order issued in Docket No. E-22, Sub 532. For cost of service/ratemaking purposes, North Carolina retail ratepayers shall be held harmless from any cost assignment or allocation of costs resulting from agreements between DENC and any of its wholesale customers, other than for reasonable and appropriate load decline or growth.
 - (c) To the extent that commitments are made by or imposed upon DENC, PSNC, Dominion Energy, another Affiliate, or a Nonpublic Utility Operation relating to the Merger, either through an offer, a settlement, or as a result of a regulatory order, the effects of which serve to increase the North Carolina retail cost of service or North Carolina retail fuel costs under reasonable cost allocation practices, or decrease the bulk power revenues that are assigned or allocated to DENC's North Carolina retail operations or credited to DENC's jurisdictional fuel expenses, the effects of these commitments shall not be recognized for North Carolina retail ratemaking purposes.
- 4.16 Joint Owner-Specific Issues. Assignment or allocation of costs to the North Carolina retail jurisdiction shall not be adversely affected by the manner and amount of recovery of electric system costs from the Joint Owners as a result of agreements between DENC and the Joint Owners. This Regulatory Condition does not apply to PSNC.

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- 4.17 Inclusion of Cost Savings in Future Rate Proceedings. Neither DENC, PSNC, Dominion Energy, any other Affiliate, nor a Nonpublic Utility Operation shall assert that any interested party is prohibited from seeking the inclusion in future rate proceedings of cost savings that may be realized as a result of any business combination transaction impacting DENC and PSNC.
- 4.18 Reporting of Merger-Related Expenses. The North Carolina portion of Merger-Related Expenses shall be reflected in DENC's North Carolina ES-1 Reports and PSNC's North Carolina GS-1 Reports, as recorded on their books and records under generally accepted accounting principles. DENC and PSNC shall include as a footnote in their ES-1 and GS-1 Reports, as applicable, the Merger-Related Expenses that were expensed during the relevant period.
- 4.19 Liabilities of CNG and SCE&G. DENC's Retail Native Load Customers and PSNC's Customers shall be held harmless from all liabilities of CNG and SCE&G and their subsidiaries, including those incurred prior to and after Dominion Energy's acquisition of CNG in 1999. These liabilities include, but are not limited to, those associated with the following: (i) manufactured gas plant sites, (ii) asbestos claims, (iii) environmental compliance, (iv) pensions and other employee benefits, (v) decommissioning costs, and (vi) taxes. DENC's Retail Native Load Customers and PSNC's Customers shall also be held harmless from all liabilities of SCE&G, including all liabilities associated with the Summer Nuclear Station.
- 4.20 Hold Harmless Commitment. PSNC's Customers shall be held harmless from all current and prospective liabilities of DENC. DENC's Customers shall be held harmless from all current and prospective liabilities of PSNC. DENC, PSNC, Dominion Energy, the other Affiliates, and all of the Nonpublic Utility Operations shall take all such actions as may be reasonably necessary and appropriate to hold North Carolina Customers harmless from the effects of the Merger, including rate increases or foregone opportunities for rate decreases, and other effects otherwise adversely impacting Customers.
- 4.21 Cost of Service Manual. Within six months after the closing date of the Merger, DENC shall file with the Commission revisions to its electric cost of service manual to reflect any changes to the cost of service determination process made necessary by the Merger, any subsequent alterations in the organizational structure of DENC, PSNC, Dominion Energy, other Affiliates, or the Nonpublic Utility Operations, or other circumstances that necessitate such changes. These filings shall be made in Docket No. E-22, Sub 551A.

SECTION V CODE OF CONDUCT

These Regulatory Conditions include a Code of Conduct in Appendix A. The Code of Conduct governs the relationships, activities, and transactions between or among the public utility operations of DENC, PSNC, Dominion Energy, the Affiliates of DENC and PSNC, and the Nonpublic Utility Operations of DENC and PSNC.

- 5.1 Compliance. DENC, PSNC, Dominion Energy, the other Affiliates, and the Nonpublic Utility Operations shall be bound by the terms of the Code of Conduct set forth in Appendix A and as it may subsequently be amended.

SECTION VI PJM CONDITIONS

- 6.1 Cost-based Rates. DENC's North Carolina retail Customers will continue to be entitled to, and receive, cost-based rates for generation, transmission, and distribution (including any ancillary services) determined pursuant to North Carolina law notwithstanding DENC's integration into PJM or decision to participate in any capacity or energy market administered by PJM.
- 6.2 Reporting Requirements. DENC shall continue to comply with the reporting obligations established in Paragraph 5¹ of the Joint Offer of Settlement entered into between DENC and PJM filed in Docket No. E-22, Sub 418, on December 6, 2004, as set forth below.

Condition 5:

Dominion agrees to submit annually to the Commission, [on or before August 31 of each year,] a report or reports that provide the following information set forth in items a. through

¹ Pursuant to the letter filed by Monitoring Analytics, LLC in Docket No. E-22, Sub 532 on Nov. 16, 2016, Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor ("IMM") for PJM, will continue to annually file the information specified in Paragraph 6 of the December 16, 2004 Joint Offer of Settlement. Paragraph 6 provides:

6. [The PJM IMM] will provide annual reports to the Commission [on or before July 15 of each year,] detailing the following information:
- a. A description of transmission constraints impacting Dominion's service territory within North Carolina and the events leading up to such constraints. Such description should include an estimate of the congestion costs associated with each event.
 - b. The actual locational marginal prices by bus impacting Dominion's service territory within North Carolina, including a separate identification of the congestion component of such prices.
 - c. Such reports will be provided annually [original language inapplicable].

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d. below. [The annual report or reports] will cover the twelve month period June 1 through the following May 31, to correspond with PJM's FTR allocation and auction schedule:

a. A summary of monthly congestion costs and FTR revenues allocated to the North Carolina portion of the Company's service territory, including a description of the method of allocating such costs and revenues. This summary should provide a breakdown of explicit congestion costs (incurred through transmission congestion charges) and discuss the extent to which explicit congestion costs are mitigated through the receipt of FTR or ARR revenue.

b. A summary of the Company's monthly capacity and energy transactions with the PJM markets to the extent they impact costs and revenues allocated to the North Carolina portion of the Company's service territory.

c. A narrative description of the LMP load aggregation zones designated within the North Carolina portion of the Company's service territory. This description should describe any change (actual or proposed) in the designation of such zones and the cause of any such change.

d. A narrative description of the Company's general approach for requesting or obtaining ARRs or FTRs, the level of ARRs or FTRs requested, and the amount received that impacts the Company's operations in North Carolina. This description should describe any change (actual or proposed) in the allocation of ARRs or FTRs to the Company and the cause of any such change.

SECTION VII FINANCINGS

The following Regulatory Conditions are intended to ensure (a) that DENC's and PSNC's capital structures and cost of capital are not adversely affected through their affiliation with Dominion Energy, each other, and other Affiliates and (b) that DENC and PSNC have sufficient access to equity and debt capital at a reasonable cost to adequately fund and maintain their current and future capital needs and otherwise meet their service obligations to their Customers.

These conditions do not supersede any orders or directives of the Commission regarding specific securities issuances by DENC, PSNC, or Dominion Energy. The approval of the Merger by the Commission does not restrict the Commission's right to review, and by order to adjust, DENC's or PSNC's cost of capital for ratemaking purposes for the effect(s) of the securities-related transactions associated with the Merger.

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- 7.1 Accounting for Equity Investment in Subsidiaries. Dominion Energy shall maintain its books and records so that any net equity investment in CNG or SCANA, their subsidiaries, or their successors, by Dominion Energy or any Affiliates can be identified and made available on an ongoing basis. This information shall be provided to the Public Staff upon its request.
- 7.2 Accounting for Capital Structure Components and Cost Rates. Dominion Energy, DENC, and PSNC shall keep their respective accounting books and records in a manner that will allow all capital structure components and cost rates of the cost of capital to be identified easily and clearly for each entity on a separate basis. This information shall be provided to the Public Staff upon its request.
- 7.3 Accounting for Equity Investment in DENC and PSNC. DENC and PSNC shall keep their respective accounting books and records so that the amount of Dominion Energy's equity investment in DENC and PSNC can be identified and made available upon request on an ongoing basis. This information shall be provided to the Public Staff upon request.
- 7.4 Reporting of Capital Contributions. As part of their Commission ES-1 and GS-1 Reports, DENC and PSNC shall include a schedule of any capital contribution(s) received from Dominion Energy in the applicable calendar quarter.
- 7.5 Identification of Long-term Debt Issued by DENC and PSNC. DENC and PSNC shall each identify as clearly as possible long-term debt (of more than one year's duration) that they issue in connection with their regulated utility operations and capital requirements or to replace existing debt.
- 7.6 Procedures Regarding Proposed Financings.
- (a) The issuance of securities by Dominion Energy, DENC, or PSNC after the announcement of the Merger does not restrict the Commission's authority to review and, if required in order to establish just and reasonable rates, adjust the cost of capital of Dominion Energy, DENC, or PSNC, as the case may be, for ratemaking purposes.
 - (b) For all types of financings for which PSNC (or its subsidiaries) are the issuers of the respective securities, PSNC (or its subsidiaries) shall request approval from the Commission to the extent required by G.S. 62-160 through G.S. 62-169 and Commission Rule R1-16. Generally, the format of these filings should be consistent with past practices. A "shelf registration" approach (similar to Docket No. E-7, Sub 727) may be requested.
 - (c) Securities issuances or financings that are associated with a merger, acquisition, or other business combination shall be filed in

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conjunction with the information requirements and deadlines stated in Regulatory Conditions 9.1 and 9.2, and this Condition 7.6 shall not apply to such securities issuances or financings.

- 7.7 Intercompany Revolving Line of Credit (Loan) Agreement Subject to the limitations imposed in Regulatory Condition 8.6, DENC and PSNC may borrow through Dominion Energy. Dominion Energy intends to have in place a one-way Intercompany Revolving Credit Agreement ("IRCA") that allows PSNC to borrow directly from Dominion Energy but does not allow for Dominion Energy (or Affiliates) to borrow from PSNC. Funds under the IRCA will be available on a daily basis, as needed. PSNC will file monthly reports on its participation in the Intercompany Revolving Line of Credit (Loan) Agreement.
- 7.8 Borrowing Arrangements. Subject to the limitations imposed in Regulatory Condition 8.6, DENC may borrow short-term funds through one or more joint external debt or credit arrangements (a Credit Facility), provided that the following conditions are met:
- (a) No borrowing by DENC under a Credit Facility shall exceed one year in duration, absent Commission approval;
 - (b) No Credit Facility shall include, as a borrower, any party other than DENC; and
 - (c) DENC's participation in any Credit Facility shall in no way cause it to guarantee, assume liability for, or provide collateral for any debt or credit other than its own.
 - (d) Should PSNC decide in the future to seek short-term financing via sources other than those permitted pursuant to Section 7.7, it will not do so without first notifying the Commission. PSNC will file monthly reports on any such short-term borrowings.
- 7.9 Long-Term Debt Fund Restrictions. DENC and PSNC shall acquire their respective long-term debt funds through the financial markets, and shall neither borrow from, nor lend to, on a long-term basis, Dominion Energy or any of the other Affiliates. To the extent that either DENC or PSNC borrows on short-term or long-term bases in the financial markets and is able to obtain a debt rating its debt shall be rated under its own name.

SECTION VIII CORPORATE GOVERNANCE/RING FENCING

The following Regulatory Conditions are intended to ensure the continued viability of DENC and PSNC and to insulate and protect DENC, PSNC, and DENC's Retail Native Load Customers and PSNC's Customers from the

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business and financial risks of Dominion Energy and the Affiliates within the Dominion Energy holding company system, including the protection of utility assets from liabilities of Affiliates.

- 8.1 Investment Grade Debt Rating. DENC and PSNC shall manage their respective businesses so as to maintain an investment grade debt rating on all of their rated debt issuances with all of the debt rating agencies. If Dominion Energy's or PSNC's debt rating falls within one notch of an investment grade rating by S&P and Moody; then, DENC and PSNC shall file written notice to the Commission and the Public Staff within five (5) days of such change and an explanation as to why the downgrade occurred. Within 45 days of such notice, DENC or PSNC shall provide the Commission and the Public Staff with a specific plan for maintaining and improving its debt rating. The Commission, after notice and hearing, may then take whatever action it deems necessary consistent with North Carolina law to protect the interests of DENC's Retail Native Load Customers and PSNC's Customers in the continuation of adequate and reliable service at just and reasonable rates.
- 8.2 Protection Against Debt Downgrade. To the extent the cost rates of any of DENC's or PSNC's long-term debt (more than one year) or short-term debt (one year or less) are adversely affected after closing of the Merger through a ratings downgrade of those entities attributable to the Merger, a replacement cost rate to remove the effect shall be used for all purposes affecting any of DENC's North Carolina retail rates and charges and PSNC's North Carolina rates and charges. This replacement cost rate shall be applicable to all financings, refundings, and refinancings taking place following an adverse change in ratings attributed to the Merger, and shall reflect the cost rate that is comparable to an issuer credit rating of a "BBB+" rating by S&P and a "A2" rating by Moody's. If a downgrade has occurred and is continuing, a replacement cost calculation will be determined, as part of DENC's and PSNC's future general rate cases. This procedure shall be effective for five years following the merger. This Regulatory Condition does not indicate a preference for a specific debt rating or preferred stock rating for DENC or PSNC on current or prospective bases.
- 8.3 Distributions from DENC and PSNC to Holding Company. DENC and PSNC shall limit cumulative distributions paid to Dominion Energy subsequent to the Merger to (a) the amount of Retained Earnings on the day prior to the closure of the Merger, plus (b) any future earnings recorded by DENC and PSNC subsequent to the Merger. DENC and PSNC shall notify the Commission and Public Staff if the payment of any distributions or dividends results in DENC's and PSNC's actual common equity component of total capitalization falling below 45%, using the method of calculating equity levels under the ratemaking precedents of this Commission. The notification shall include a brief explanation and planned steps to remedy the balance of common equity.

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- 8.4 Debt Ratio Restrictions. To the extent any of Dominion Energy's external debt or credit arrangements contain covenants restricting the ratio of debt to total capitalization on a consolidated basis to a maximum percentage of debt, Dominion Energy shall ensure that the capital structures of both DENC and PSNC individually meet those restrictions.
- 8.5 Dominion Energy, Inc. commits to use commercially reasonable efforts to maintain a "BBB+" issuer credit rating by S&P and a "A2" rating by Moody's for PSNC and DENC.
- 8.6 Limitation on Continued Participation in Credit Arrangements with Affiliates. DENC and PSNC may participate in any authorized joint debt or credit arrangement as provided in Regulatory Conditions 7.7 and 7.8 only to the extent such participation is beneficial to DENC's respective Retail Native Load Customers and PSNC's Customers and does not negatively affect DENC's, or PSNC's ability to continue to provide adequate and reliable service at just and reasonable rates.
- 8.7 Notice of Level of Non-Utility Investment by Holding Company. In order to enable the Commission to determine whether the cumulative investment by Dominion Energy in assets, ventures, or entities other than regulated utilities is reasonably likely to have an Effect on DENC's or PSNC's Rates or Service so as to warrant Commission action (pursuant to Regulatory Condition 8.8 or other applicable authority) to protect DENC's Retail Native Load Customers or PSNC's Customers, Dominion Energy shall notify the Commission within 90 days following the end of any fiscal year for which Dominion Energy reports to the Securities and Exchange Commission assets in its operations other than regulated entities that are in excess of 22% of its consolidated total assets. The following procedures shall apply to such a notice:
- (a) Any interested party may file comments within 45 days of the filing of Dominion Energy's notice.
 - (b) If timely comments are filed, the Public Staff shall place the matter on a Commission Staff Conference agenda as soon as possible, but in no event later than 15 days after the comments are filed, and shall make a recommendation as to how the Commission should proceed. If the Commission determines that the percentage of total assets invested in Dominion Energy's operations other than regulated entities is reasonably likely to have an Effect on DENC's or PSNC's Rates or Service so as to warrant action by the Commission to protect DENC's Retail Native Load Customers and PSNC's Customers, the Commission shall issue an order setting the matter for further consideration. If the Commission determines that the percentage threshold being exceeded does not warrant action by the Commission, the Commission shall issue an order so ruling.

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- 8.8 Use of nuclear decommissioning funds. DENC's nuclear decommissioning funds shall not be used in full or in part for the purpose of the Merger or any other purpose other than providing financial assurance for decommissioning the Surry and North Anna nuclear power stations owned by DENC.
- 8.9 Notice by Holding Company of Certain Investments. Dominion Energy shall file a notice with the Commission subsequent to Board approval and as soon as practicable following any public announcement of any investment in a regulated utility or a non-regulated business that represents five (5) percent or more of Dominion Energy's book capitalization.
- 8.10 Ongoing Review of Effect of Holding Company Structure. The operation of DENC and PSNC under a holding company structure shall continue to be subject to Commission review. To the extent the Commission has authority under North Carolina law, it may order modifications to the structure or operations of Dominion Energy, the Service Company, another Affiliate, or a Nonpublic Utility Operation, and may take whatever action it deems necessary in the interest of DENC's Retail Native Load Customers and PSNC's Customers to protect the economic viability of DENC and PSNC, including the protection of DENC's and PSNC's public utility assets from liabilities of Affiliates.
- 8.11 Investment by DENC or PSNC in Non-regulated Utility Assets and Non-utility Business Ventures. Neither DENC nor PSNC shall invest in a non-regulated utility asset or any non-utility business venture exceeding \$50 million in purchase price or gross book value to DENC or PSNC unless it provides 30 days' advance notice. Regulatory Condition 13.2 shall apply to an advance notice filed pursuant to this Regulatory Condition. Purchases of assets, including land that will be held with a definite plan for future use in providing Electric Services in DENC's franchise area or Natural Gas Services in PSNC's franchise area, shall be excluded from this advance notice requirement.
- 8.12 Investment by Holding Company in Exempt Wholesale Generators. By April 15 of each year, Dominion Energy shall provide to the Commission and the Public Staff a report summarizing Dominion Energy's investment in exempt wholesale generators (EWGs) and foreign utility companies (FUCOs) in relation to its level of consolidated retained earnings and consolidated total capitalization at the end of the preceding year. Exempt wholesale generator and foreign utility company are defined in Section 1262(6) of Subtitle F in Title XII of the Energy Policy Act of 2005 and have the same meanings for purposes of this condition.
- 8.13 Notice by DENC or PSNC of Default or Bankruptcy of Affiliate. If an Affiliate of DENC or PSNC experiences a default on an obligation that is material to Dominion Energy or files for bankruptcy, and such bankruptcy is material to

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Dominion Energy, DENC, or PSNC, DENC and PSNC shall notify the Commission in advance, if possible, or as soon as possible, but not later than ten days from such event.

8.14 Annual Report on Corporate Governance. No later than March 31 of each year, DENC and PSNC shall file a report including the following:

- (a) A complete, detailed organizational chart (i) identifying DENC, PSNC, and each Dominion Energy financial reporting segment, and (ii) stating the business purpose of each Dominion Energy financial reporting segment. Changes from the report for the immediately preceding year shall be summarized at the beginning of the report.
- (b) A list of all Dominion Energy financial reporting segments that are considered to constitute non-regulated investments and a statement of each segment's total capitalization and the percentage it represents of Dominion Energy's non-regulated investments and total investments. Changes from the report for the immediately preceding year shall be summarized at the beginning of the report.
- (c) An assessment of the risks that each unregulated Dominion Energy financial reporting segment could pose to DENC or PSNC based upon current business activities of those affiliates and any contemplated significant changes to those activities.
- (d) A description of DENC's, PSNC's and each significant Affiliate's actual capital structure.
- (e) A list of all protective measures (other than those provided for by these Regulatory Conditions) in effect between DENC, PSNC, and any of their Affiliates, and a description of the goal of each measure and how it achieves that goal, such as mitigation of DENC's and PSNC's exposure in the event of a bankruptcy proceeding involving any Affiliate(s).
- (f) A list of corporate executive officers and other key personnel that are shared between DENC and PSNC, and any Affiliate, along with a description of each person's position(s) with, and duties and responsibilities to each entity.
- (g) A calculation of Dominion Energy's total book and market capitalization as of December 31 of the preceding year for common equity, preferred stock, and debt.

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SECTION IX FUTURE MERGERS AND ACQUISITIONS

The following Regulatory Conditions are intended to ensure that the Commission receives sufficient notice to exercise its lawful authority over proposed mergers, acquisitions, and other business combinations involving Dominion Energy, DENC, PSNC, other Affiliates, or the Nonpublic Utility Operations. The advance notice provisions set forth in Regulatory Condition 13.2 do not apply to these conditions.

- 9.1 Mergers and Acquisitions by or Affecting DENC or PSNC. For any proposed merger, acquisition, or other business combination by DENC or PSNC that would have an Effect on DENC or PSNC's Rates or Service, DENC, or PSNC shall file in a new Sub docket an application for approval pursuant to G S. 62-111(a) at least 180 days before the proposed closing date for such merger, acquisition, or other business combination.
- 9.2 Mergers and Acquisitions Believed Not to Have an Effect on DENC's, or PSNC's Rates or Service. For any proposed merger, acquisition, or other business combination that is believed not to have an Effect on DENC's, or PSNC's Rates or Service, but which involves Dominion Energy, other Affiliates, or the Nonpublic Utility Operations and which has a transaction value exceeding \$1.5 billion, the following shall apply:
- (a) Advance notification shall be filed with the Commission in a new Sub docket by the merging entities at least 90 days prior to the proposed closing date for such proposed merger, acquisition or other business combination. The advance notification is intended to provide the Commission an opportunity to determine whether the proposed merger, acquisition, or other business combination is reasonably likely to affect DENC or PSNC so as to require approval pursuant to G S. 62-111(a). The notification shall contain sufficient information to enable the Commission to make such a determination. If the Commission determines that such approval is required, the 180-day advance filing requirement in Regulatory Condition 9.1 shall not apply.
 - (b) Any interested party may file comments within 45 days of the filing of the advance notification.
 - (c) If timely comments are filed, the Public Staff shall place the matter on a Commission Staff Conference agenda as soon as possible, but in no event later than 15 days after the comments are filed, and shall recommend that the Commission issue an order deciding how to proceed. If the Commission determines that the merger, acquisition,

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or other business combination requires approval pursuant to G.S. 62-111(a), the Commission shall issue an order requiring the filing of an application, and no closing can occur until and unless the Commission approves the proposed merger, acquisition, or business combination. If the Commission determines that the merger, acquisition, or other business combination does not require approval pursuant to G.S. 62-111(a), the Commission shall issue an order so ruling. At the end of the notice period, if no order has been issued, Dominion Energy, any other Affiliate, or the Nonpublic Utility Operation may proceed with the merger, acquisition, or other business combination but shall be subject to any fully-adjudicated Commission order on the matter.

SECTION X STRUCTURE/ORGANIZATION

The following Regulatory Conditions are intended to ensure that the Commission receives adequate notice of, and opportunity to review and take such lawful action as is necessary and appropriate with respect to, changes to the structure and organization of Dominion Energy, DENC, PSNC, and other Affiliates, and Nonpublic Utility operations as they may affect Customers.

- 10.1 Transfer of Services, Functions, Departments, Rights, Assets, or Liabilities. DENC and PSNC shall file notice with the Commission 30 days prior to the initial transfer or any subsequent transfer of any services, functions, departments, rights, obligations, assets, or liabilities from DENC or PSNC to the Service Company that (a) involves services, functions, departments, rights, obligations, assets, or liabilities other than those of a governance or corporate type nature that traditionally have been provided by a service company or (b) potentially would have a significant effect on DENC's or PSNC's public utility operations. The provisions of Regulatory Condition 13.2 apply to an advance notice filed pursuant to this Regulatory Condition.
- 10.2 Notice and Consultation with Public Staff Regarding Proposed Structural and Organizational Changes. Upon request, DENC and PSNC shall meet and consult with, and provide requested relevant data to, the Public Staff regarding plans for significant changes in DENC's, PSNC's, or Dominion Energy's organization, structure (including RTO developments), and activities; the expected or potential impact of such changes on Customer rates, operations, and service; and proposals for assuring that such plans do not adversely affect DENC's Retail Native Load Customers or PSNC's Customers. To the extent that proposed significant changes are planned for the organization, structure, or activities of an Affiliate or Nonpublic Utility Operation and such proposed changes are likely to have an adverse impact on DENC's Retail Native Load Customers or PSNC's Customers, then DENC's and PSNC's plans and proposals for assuring that those plans do not adversely affect their Customers must be included in these meetings.

DENC and PSNC shall inform the Public Staff promptly of any such events and changes.

SECTION XI SERVICE QUALITY

The following Regulatory Conditions are intended to ensure that DENC and PSNC continue to implement and further their commitment to providing superior public utility service by meeting recognized service quality indices and implementing industry best practices of each other and their Utility Affiliates, to the extent reasonably practicable.

- 11.1 Overall Service Quality. Upon consummation of the Merger, DENC and PSNC each shall continue their commitment to providing superior public utility service and shall maintain the overall reliability of Electric Services and Natural Gas Services at levels no less than the overall levels it has achieved in the past decade.
- 11.2 Superior bundled retail electric service. DENC will continue to take all reasonable and prudent actions necessary to continue to provide its North Carolina retail customers with superior bundled retail electric service including but not limited to: reliable generation, transmission, and distribution service; minimization of power outages; efficient restoration of service; and responsive customer service.
- 11.3 Best Practices. DENC and PSNC shall make every reasonable effort to incorporate each other's industry best practices into its own practices to the extent reasonably practicable.
- 11.4 Quarterly Reliability Reports. DENC shall provide quarterly service reliability reports to the Public Staff on the following measures: System Average Interruption Duration Index (SAIDI) and System Average Interruption Frequency Index (SAIFI).
- 11.5 Notice of NERC Audit. At such time as DENC receives notice that the North American Electric Reliability Corporation (NERC) or the SERC Reliability Corporation will be conducting a non-routine compliance audit with respect to DENC's compliance with mandatory reliability standards, DENC shall notify the Public Staff.
- 11.6 Right-of-Way Maintenance Expenditures (DENC). DENC shall budget and expend sufficient funds to trim and maintain its lower voltage line rights-of-way and its distribution rights-of-way in a manner consistent with its internal right-of-way clearance practices and Commission Rule R8-26. In addition, DENC shall track annually, on a major category basis, departmental or division budget requests, approved budgets, and actual expenditures for right-of-way maintenance.

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- 11.7 Right-of-Way Maintenance Expenditures (PSNC). PSNC shall budget and expend sufficient funds to maintain its pipeline rights-of-way so as to allow ready access by personnel and vehicles for the purpose of responding to pipeline damage, conducting leak and corrosion surveys, performing maintenance activities, and ensuring system integrity, safety, and reliability.
- 11.8 Right-of-Way Clearance Practices (DENC). DENC shall provide a copy of its internal right-of-way clearance practices to the Public Staff, and shall promptly notify the Public Staff of any significant changes or modifications to the practices or maintenance schedules.
- 11.9 Right-of-Way Clearance Practices (PSNC). PSNC shall provide a copy of its Operating and Maintenance Manual to the Public Staff and shall promptly notify the Public Staff in writing of any substantive changes to the practices or maintenance schedules.
- 11.10 Meetings with Public Staff.
- (a) DENC and PSNC shall each meet annually with the Public Staff to discuss service quality initiatives and results, including (i) ways to monitor and improve service quality, (ii) right-of-way maintenance practices, budgets, and actual expenditures, and (iii) plans that could have an effect on customer service, such as changes to call center operations.
 - (b) DENC and PSNC shall each meet with the Public Staff at least annually to discuss potential new tariffs, programs, and services that enable its customers to appropriately manage their energy bills based on the varied needs of their customers.
 - (c) DENC also commits to provide such other data as required by the NCUC and/or the Public Staff, including information on transmission and generation reliability. DENC will meet with the Public Staff every six months to review such reports and other operational information.
- 11.11 Customer Access to Service Representatives and Other Services. DENC and PSNC shall continue to have knowledgeable and experienced customer service representatives available 24 hours a day to respond to service outage calls and during normal business hours to handle all types of customer inquiries. DENC and PSNC shall also maintain up-to-date and user-friendly online services and automated telephone service 24 hours a day to perform routine customer interactions and to provide general billing and customer information.
- 11.12 Customer Surveys. DENC and PSNC shall continue to survey their Customers regarding their satisfaction with public utility service and shall incorporate this information into their processes, programs, and services.

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SECTION XII TAX MATTERS

The following Regulatory Conditions are intended to ensure that DENC's Retail Native Load Customers and PSNC's North Carolina Customers do not bear any additional income taxes as a result of the Merger and receive an appropriate share of any income tax benefits associated with the service company Affiliates.

- 12.1 Costs Under Tax Sharing Agreements. Under any tax sharing agreement, DENC and PSNC shall not seek to recover from North Carolina Customers any taxes that exceed DENC's or PSNC's tax liability calculated as if it were a stand-alone, taxable entity for tax purposes.
- 12.2 Taxes Associated with Service Companies. The appropriate portion of any taxes or tax benefits associated with the Service Company shall accrue to the North Carolina retail operations of DENC and PSNC for regulatory accounting, reporting, and ratemaking purposes.

SECTION XIII PROCEDURES

The following Regulatory Conditions are intended to apply to all filings made pursuant to these Regulatory Conditions unless otherwise expressly provided by, Commission order, rule, or statute.

- 13.1 Filings that Do Not Involve Advance Notice. Regulatory Condition filings that are not subject to Regulatory Condition 13.2 shall be made in sub-dockets of Docket Nos. E-22, Sub 551 and G-5, Sub 585, as follows:
 - (a) Filings related to affiliate matters required by Regulatory Conditions 4.3, 4.4, 4.5, 4.6, and 4.7 shall be made by DENC and PSNC in Subs 551A and 585A, respectively;
 - (b) Filings related to financings required by Regulatory Condition 7.6, and the filings required by Regulatory Conditions 8.1, 8.3, 8.7, 8.9, 8.12, 8.13, and 8.14 shall be made by DENC and PSNC in Subs 551B and 585B, respectively;
 - (c) Filings related to compliance as required by Regulatory Condition 14.4 and filings required by Sections III.A.2(k), III.A.3(e), III.D.5, and III.D.8 of the Code of Conduct shall be made by DENC and PSNC in Subs 551C and 585C, respectively;
 - (d) Filings related to orders and filings with the FERC, as required by Regulatory Conditions 3.9 and 4.13 shall be made by DENC and PSNC in Subs 551D and 585D, respectively.

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- 13.2 Advance Notice Filings. Advance notices filed pursuant to Regulatory Conditions 3.1(b), 4.3(e), 4.4(b), 8.9, and 10.1 shall be assigned a new, separate Sub docket. Such a filing shall identify the condition and notice period involved and state whether other regulatory approvals are required and shall be in the format of a pleading, with a caption, a title, allegations of the activities to be undertaken, and a verification. Advance notices may be filed under seal if necessary. The following additional procedures apply:
- (a) Advance notices of activities to be undertaken shall not be filed until sufficient details have been decided upon to allow for meaningful discovery as to the proposed activities.
 - (b) The Chief Clerk shall distribute a copy of advance notice filings to each Commissioner and to appropriate members of the Commission Staff and Public Staff.
 - (c) DENC or PSNC shall serve such advance notices on each party to Docket Nos. E-22, Sub 551 and G-5, Sub 585, respectively, that has filed a request to receive them with the Commission within 30 days of the issuance of an order approving the Merger in this docket. These parties may participate in the advance notice proceedings without petitioning to intervene. Other interested persons shall be required to follow the Commission's usual intervention procedures.
 - (d) To effectuate this Regulatory Condition, DENC or PSNC shall serve pertinent information on all parties at the time it serves the advance notice. During the advance notice period, a free exchange of information is encouraged, and parties may request additional relevant information. If DENC or PSNC objects to a discovery request, DENC or PSNC and the requesting party shall try to resolve the matter. If the parties are unable to resolve the matter, DENC or PSNC may file a motion for a protective order with the Commission.
 - (e) The Public Staff shall investigate and file a response with the Commission no later than 15 days before the notice period expires. Any other interested party may also file a response or objection within 15 days before the notice period expires. DENC or PSNC may file a reply to the response(s).
 - (f) The basis for any objection to the activities to be undertaken shall be stated with specificity. The objection shall allege grounds for a hearing, if such is desired.
 - (g) If neither the Public Staff nor any other party files an objection to the activities within 15 days before the notice period expires, no Commission order shall be issued, and the Sub docket in which the advance notice was filed may be closed.

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- (h) If the Public Staff or any other party files a timely objection to the activities to be undertaken by DENC or PSNC, the Public Staff shall place the matter on a Commission Staff Conference agenda as soon as possible, but in no event later than two weeks after the objection is filed, and shall recommend that the Commission issue an order deciding how to proceed as to the objection. The Commission reserves the right to extend an advance notice period by order should the Commission need additional time to deliberate or investigate any issue. At the end of the notice period, if no objection has been filed by the Public Staff and no order, whether procedural or substantive, has been issued, DENC, PSNC, Dominion Energy, any other Affiliate, or the Nonpublic Utility Operation may execute the proposed agreement, proceed with the activity to be undertaken, or both, but shall be subject to any fully-adjudicated Commission order on the matter.
- (i) If the Commission schedules a hearing on an objection, the party filing the objection shall bear the burden of proof at the hearing.
- (j) The precedential effect of advance notice proceedings, like most issues of res judicata, will be decided on a fact-specific basis.
- (k) If some other Commission filing or Commission approval is required by statute, notice pursuant to a Regulatory Condition alone does not satisfy the statutory requirement.

SECTION XIV

COMPLIANCE WITH CONDITIONS AND CODE OF CONDUCT

The following Regulatory Conditions are intended to ensure that Dominion Energy, DENC, PSNC, and all other Affiliates establish and maintain the structures and processes necessary to fulfill the commitments expressed in all of the Regulatory Conditions and the Code of Conduct in a timely, consistent, and effective manner.

- 14.1 Ensuring Compliance with Regulatory Conditions and Code of Conduct. Dominion Energy, DENC, PSNC, and all other Affiliates shall devote sufficient resources into the creation, monitoring, and ongoing improvement of effective internal compliance programs to ensure compliance with all Regulatory Conditions and the Code of Conduct, and shall take a proactive approach toward correcting any violations and reporting them to the Commission. This effort shall include the implementation of systems and protocols for monitoring, identifying, and correcting possible violations, a management culture that encourages compliance among all personnel, and the tools and training sufficient to enable employees to comply with Commission requirements.

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- 14.2 Designation of Chief Compliance Officer. DENC and PSNC shall designate a chief compliance officer who will be responsible for compliance with the Regulatory Conditions and Code of Conduct. This person's name and contact information must be posted on DENC's and PSNC's Internet Websites.
- 14.3 Annual Training. DENC and PSNC shall implement within one (1) year of the closing of the Merger an annual training program on the requirements and standards contained within the Regulatory Conditions and Code of Conduct to all of their employees (including service company employees) whose duties in any way may be affected by such requirements and standards. New employees must receive such training within the first 60 days of their employment. Each employee who has taken the training must certify electronically or in writing that s/he has completed the training.
- 14.4 Report of Violations. If DENC or PSNC discover that a violation of their requirements or standards contained within the Regulatory Conditions and Code of Conduct has occurred then DENC or PSNC shall file a statement with the Commission in Docket Nos. E-22, Sub 551C and G-5, Sub 585C, respectively, describing the circumstances leading to that violation of DENC's or PSNC's requirements or standards, as contained within the Regulatory Conditions and Code of Conduct, and the mitigating and other steps taken to address the current or any future potential violation.

SECTION XV

PROCEDURES FOR DETERMINING LONG-TERM SOURCES OF PIPELINE CAPACITY AND SUPPLY

The following Regulatory Conditions are intended to ensure the continued practices of DENC and PSNC for determining long-term sources of pipeline capacity and supply.

- 15.1 Cost-benefit Analysis. The appropriate source(s) for the interstate pipeline capacity and supply shall be determined by DENC on the basis of the benefits and costs of such source(s) specific to its electric customers. The appropriate source(s) for the interstate pipeline capacity and supply shall be determined by PSNC on the basis of the specific benefits and costs of such source(s) specific to its natural gas customers, including electric power generating customers. PSNC shall not contract with an Affiliate interstate pipeline for additional capacity with a contractual term of ten years or more unless or until it has issued a request for proposals to obtain such capacity and considers the proposals in good faith. PSNC shall not contract with an Affiliate interstate pipeline for additional capacity with a contractual term of ten years or more unless the Affiliate is the least cost provider of such capacity or unless otherwise approved by the Commission.

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- 15.2 Ownership and Control of Contracts. Except as provided in Code of Conduct Section III.D.5 (Joint purchases), PSNC shall retain title, ownership, and management of all gas contracts necessary to ensure the provision of reliable Natural Gas Services consistent with PSNC's best cost gas and capacity procurement methodology.

SECTION XVI

RATE REDUCTION, MOST FAVORED NATION CLAUSE, AND OTHER RATEPAYER PROTECTION MATTERS

The following Regulatory Conditions are intended to ensure, through rate and other protections for PSNC's North Carolina retail ratepayers, that the benefits of the Merger are equal to or surpass the costs of the merger to those ratepayers.

- 16.1 Bill Credit - PSNC will create a regulatory liability of \$3.75 million representing a refund to customers of 2017 revenues and will subsequently provide such refund to customers as a bill credit of \$1.25 million on January 1, 2019 or as soon thereafter as practicable, another bill credit of \$1.25 million on January 1, 2020, and a final bill credit of \$1.25 million on January 1, 2021.
- 16.2 Rate Moratorium - PSNC will not file an application for a general rate case proceeding to adjust its rates and charges before April 1, 2021. PSNC will not increase its non-gas cost margin in its rates until November 1, 2021, except for the following reasons: (1) adjustments or changes pursuant to Rider C (Customer Usage Tracker), Rider D (Purchased Gas Adjustment Procedures), and Rider E (Integrity Management Tracker) pursuant to G.S. 62-133.4, G.S. 62-133.7, and G.S. 62-133.7A; (2) to reflect the financial impact of governmental action (legislative, executive, or regulatory) having a substantial specific impact on the gas industry generally or on a segment thereof that includes PSNC, including but not limited to major expenditures for environmental compliance; (3) to implement natural gas expansion surcharges imposed pursuant to G.S. 62-158; or (4) to reflect the financial impact of major expenditures associated with force majeure. In addition, PSNC shall not file for any cost deferral during or covering any period from the date of an order approving the merger until after October 31, 2021, except: (1) to reflect the financial impact of governmental action (legislative, executive, or regulatory) having a substantial specific impact on the gas industry generally or on a segment thereof that includes PSNC, including but not limited to major expenditures for environmental compliance; or (2) to reflect the financial impact of major expenditures associated with force majeure. This provision does not indicate that the Public Staff would support, or that the Commission would approve, such cost deferral.

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- 16.3 Customer Service: PSNC agrees to maintain current levels of customer service and behavior towards customers, as well as current levels of professional cooperation with regulators, consumer advocates, and intervenors.
- 16.4 Cost Saving Opportunities: The electric utility operations of DENC and SCE&G, along with their affiliates and subsidiaries, will look for post-Merger opportunities to engage in joint planning, purchasing, and services that will result in cost savings to DENC's retail electric customers, while not compromising reliability or service quality.
- 16.5 Most Favored Nations Clause - Following the approval of the Merger by the state commissions of Georgia, South Carolina, and any other jurisdictions where DENC or PSNC must obtain approval, and approval of merger-related affiliate agreements and any other merger-related filings required to be or otherwise approved by any applicable jurisdiction, any mechanisms pursuant to which benefits and ratepayer protections are provided to DENC and/or PSNC retail customers in each of these states will be reviewed to identify the states in which each of DENC's and/or PSNC's retail customers will receive the largest financial (including, but not limited to, rate reductions, rebates, refunds, other payments, bill credits, rate moratoriums, etc.) and non-financial benefits, and other ratepayer protections, on a per customer or pro rata basis. If the application of those benefits to DENC's and/or PSNC's North Carolina retail ratepayers would result in a greater level of benefits and/or protections than that which has otherwise been provided for their North Carolina retail customers in these Regulatory Conditions, then the benefits and protections to that utility's North Carolina retail ratepayers will be increased to match the greatest level of benefits and protections provided to the DENC and/or PSNC retail ratepayers in any of the other jurisdictions. Application of this methodology is intended to ensure that DENC's and PSNC's North Carolina retail customers receive the benefit of a "Most Favored Nation" status with regard to the provision of Merger benefits and protections among the states named above. In no event will the application of the methodology cause North Carolina retail customers' benefits or protections to be reduced. To facilitate this review, DENC and PSNC will jointly file final Orders, Stipulations, etc., from all jurisdictions listed above.

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**CODE OF CONDUCT GOVERNING
THE RELATIONSHIPS AMONG
DOMINION ENERGY NORTH CAROLINA, PUBLIC SERVICE COMPANY
OF NORTH CAROLINA, INC., THEIR AFFILIATES, AND THEIR
NONPUBLIC UTILITY OPERATIONS**

I. DEFINITIONS

For purposes of this Code of Conduct, the terms listed below shall have the following definitions:

Affiliate: Dominion Energy, or any business entity of which ten percent (10%) or more is owned or controlled, directly or indirectly, by Dominion Energy. For purposes of this Code of Conduct, Dominion Energy and any business entity controlled by it are considered to be Affiliates of DENC and PSNC, and DENC and PSNC are considered to be Affiliates of each other.

Commission: The North Carolina Utilities Commission.

Confidential Systems Operation Information or CSOI: Non-public information that pertains to Electric Services provided by DENC, including, but not limited to, information concerning electric generation, transmission, distribution, or sales, and non-public information that pertains to Natural Gas Services provided by PSNC, including, but not limited to, information concerning transportation, storage, distribution, gas supply, or other similar information.

Customer: Any retail electric customer of DENC in North Carolina and any Commission-regulated natural gas sales or natural gas transportation customer of PSNC located in North Carolina.

Customer Information: Non-public information or data specific to a Customer or a group of Customers, including, but not limited to, electricity consumption, natural gas consumption, load profile, billing history, or credit history, that is or has been obtained or compiled by DENC or PSNC in connection with the supplying of Electric Services or Natural Gas Services to that Customer or group of Customers.

DENC: Virginia Electric and Power Company, d/b/a Dominion Energy North Carolina, the business entity, wholly owned by Dominion Energy, that holds the franchises granted by the Commission to provide Electric Services within its North Carolina service territory and that engages in public utility operations, as defined in G.S. 62-3(23), within the State of North Carolina. DENC refers to the system business and operation of Virginia Electric and Power Company, and not simply the North Carolina retail assigned or allocated portions of that business and operation.

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Dominion Energy: Dominion Energy, Inc., which is the current holding company parent corporation of DENC and PSNC, and any successor company.

Electric Services: Commission-regulated electric power generation, transmission, distribution, delivery, and retail sales, and other related services, including, but not limited to, administration of Customer accounts and rate schedules, metering, billing, standby service, backups, and changeovers of electric service to other suppliers.

FERC: The Federal Energy Regulatory Commission.

Fuel and Purchased Power Supply Services: All fuel for generating electric power and purchased power obtained by DENC from sources other than DENC for the purpose of providing Electric Services.

Fully Distributed Cost: All direct and indirect costs, including overheads and an appropriate cost of capital, incurred in providing the goods and services in question.

Gas Marketing Affiliate: An Affiliate, the business unit of an Affiliate, or the Nonpublic Utility Operations of PSNC that is engaged in the unregulated sale, arrangement, brokering, or management of gas supply, pipeline capacity, or gas storage.

Gas Marketing Affiliate Personnel: An employee or other representative of a Gas Marketing Affiliate that is involved in fulfilling the business purpose of the gas marketing affiliate. An officer or board member of both PSNC and a Gas Marketing Affiliate shall not be considered Gas Marketing Affiliate Personnel unless that individual is directly involved in the day-to-day fulfillment of the business purpose of the Gas Marketing Affiliate.

Market Value: The price at which property, goods, or services would change hands in an arm's-length transaction between a buyer and a seller without any compulsion to engage in a transaction, and both having reasonable knowledge of the relevant facts.

Merger: All transactions contemplated by the Agreement and Plan of Merger between Dominion Energy and SCANA Corporation.

Natural Gas Services: Commission-regulated natural gas sales and natural gas transportation, and other related services, including, but not limited to, administration of Customer accounts and rate schedules, metering and billing, and standby service.

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Nonaffiliated Gas Marketer: An entity, not affiliated with DENC or PSNC, engaged in the unregulated sale, arrangement, brokering, or management of gas supply, pipeline capacity, or gas storage.

Nonpublic Utility Operations: All business operations engaged in by DENC or PSNC involving activities (including the sales of goods or services) that are not regulated by the Commission or otherwise subject to public utility regulation at the state or federal level.

Non-Utility Affiliate: Any Affiliate, including Service Company, other than a Utility Affiliate, DENC, or PSNC.

Personnel: An employee or other representative of DENC, PSNC, Dominion Energy, another Affiliate, or a Nonpublic Utility Operation, who is involved in fulfilling the business purpose of that entity.

PSNC: Public Service Company of North Carolina, Inc., the business entity, wholly owned by Dominion Energy and SCANA, that holds the franchise granted by the Commission to provide Natural Gas Services within its North Carolina service territory and that engages in public utility operations, as defined in G.S. 62-3(23), within the State of North Carolina.

PSNC Operating Personnel: An employee or other representative of PSNC that is directly involved on a day-to day basis in the acquisition, marketing, pricing, or scheduling of gas supply, interstate pipeline capacity, or gas storage facilities on behalf of PSNC. PSNC Operating Personnel also includes personnel directly on a day-to day basis involved in managing PSNC's facilities or responsible for determining which Customers to curtail, or involved in selling products and services to PSNC's Customers eligible to purchase gas, products, and services from persons other than PSNC.

Public Staff: The Public Staff of the North Carolina Utilities Commission.

Regulatory Conditions: The conditions imposed by the Commission in connection with or related to the Merger.

Service Company: A centralized service company Affiliate that provides Shared Services to DENC, PSNC, other Affiliates, and/or the Nonpublic Utility Operations of DENC or PSNC, singly or in any combination.

Shared Services: The services that meet the requirements of the Regulatory Conditions approved in Docket Nos. E-22, Sub 551 and G-5, Sub 585, or subsequent orders of the Commission, and that the Commission has explicitly authorized DENC and PSNC to take from Service Company pursuant to a service agreement (a) filed with the Commission pursuant to G.S. 62-153(b), thus requiring acceptance and authorization by the Commission, and (b) subject to all other applicable provisions of North

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Carolina law, the rules and orders of the Commission, and the Regulatory Conditions.

Shipper: A Gas Marketing Affiliate, Nonaffiliated Gas Marketer, a municipal gas customer, or an end-user of gas.

Utility Affiliates: The regulated utility operations of The East Ohio Gas Company (Dominion Energy Ohio), Hope Gas, Inc. (Dominion Energy West Virginia), Questar Gas Company (Dominion Energy Utah, Dominion Energy Wyoming, and Dominion Energy Idaho), and South Carolina Electric & Gas Company (SCE&G).

II. **GENERAL**

This Code of Conduct establishes the minimum guidelines and rules that apply to the relationships, transactions, and activities involving the public utility operations of DENC and PSNC, Dominion Energy, other Affiliates, or the Nonpublic Utility Operations of DENC and PSNC, to the extent such relationships, transactions, and activities affect operations of DENC and PSNC in their respective service areas. DENC, PSNC, and the other Affiliates are bound by this Code of Conduct pursuant to Regulatory Condition 5.1 approved by the Commission in Dockets No. E-22, Sub 551, and G-5, Sub 585. This Code of Conduct is subject to modification by the Commission as the public interest may require, including, but not limited to, addressing changes in the organizational structure of DENC, PSNC, Dominion Energy, other Affiliates, or the Nonpublic Utility Operations; changes in the structure of the electric industry or natural gas industry; or other changes that warrant modification of this Code.

DENC or PSNC may seek a waiver of any aspect of this Code of Conduct by filing a request with the Commission showing that circumstances in a particular case justify such a waiver.

III. **STANDARDS OF CONDUCT**

A. **Independence and Information Sharing**

1. Separation:

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has approved or accepted a service company-to-utility or utility-to-utility service agreement or list, DENC, PSNC, Dominion Energy, and the other Affiliates may operate as described in the agreement or list on file at the Commission. DENC, PSNC, Dominion Energy, and each of the other Affiliates shall maintain separate books and records. Each of DENC's and PSNC's Nonpublic Utility Operations shall maintain separate records from those of DENC's and PSNC's public utility operations to ensure appropriate cost allocations and any arm's-length transaction requirements.

- (b) PSNC Operating Personnel may not perform any of the following functions on behalf of a Gas Marketing Affiliate:
 - (i) Purchase gas, pipeline capacity, or storage capacity.
 - (ii) Market or sell gas and related services.
 - (iii) Price or administer products and services.
 - (iv) Hire and/or train Gas Marketing Affiliate Personnel.
 - (v) Offer consulting services regarding gas functions.
- (c) With respect to PSNC and a Gas Marketing Affiliate, an individual may be an officer or a member of the board of directors of both PSNC and a Gas Marketing Affiliate provided that the individual does not obtain or use knowledge of market-sensitive information for more than one of the entities. PSNC shall post on its website the identity, job title, and responsibilities for each officer or board member that falls within the definition of PSNC Operating Personnel.

2. Disclosure of Customer Information:

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Affiliates. In addition, DENC may provide Customer Information to its Nonpublic Utility Operations under the same terms and conditions that apply to the provision of such information to non-Affiliates.

- (b) Except as provided in Section III.A.2.(f), Customer Information shall not be disclosed to any Affiliate or non-affiliated third party without the Customer's consent, and then only to the extent specified by the Customer. Consent to disclosure of Customer Information to Affiliates of DENC and PSNC or to DENC's Nonpublic Utility Operations may be obtained by means of written, electronic, or recorded verbal authorization upon providing the Customer with the information set forth in Attachment A or in a format that is otherwise acceptable to the Public Staff; provided, however, that DENC and PSNC retain such authorization for verification purposes for as long as the authorization remains in effect. Written, electronic, or recorded verbal authorization or consent for the disclosure of PSNC's Customer Information to PSNC's Nonpublic Utility Operations is not required.
- (c) If the Customer allows or directs DENC or PSNC to provide Customer Information to Dominion Energy, another Affiliate, or to DENC's Nonpublic Utility Operations, then DENC or PSNC shall ask if the Customer would like the Customer Information to be provided to one or more non-Affiliates. If the Customer directs DENC or PSNC to provide Customer Information to one or more non-Affiliates, the Customer Information shall be disclosed to all entities designated by the Customer contemporaneously and in the same manner.
- (d) Section III.A.2 shall be permanently posted on DENC's and PSNC's website(s).
- (e) No DENC or PSNC employee who is transferred to Dominion Energy or another Affiliate shall be permitted to copy or otherwise compile any Customer Information for use by such entity except as authorized by the Customer pursuant to Section III.A.2.(b). DENC and PSNC shall not transfer any employee to Dominion Energy or another Affiliate for the purpose of disclosing or providing Customer Information to such entity.

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- (f) Notwithstanding the prohibitions established by this Section III.A.2:
- (i) DENC and PSNC may disclose Customer Information to Service Company, any other Affiliate, or a non-affiliated third party without Customer consent to the extent necessary for the Affiliate or non-affiliated third party to provide goods or services to DENC or PSNC and upon the written agreement of the other Affiliate or non-affiliated third party to protect the confidentiality of such Customer Information. To the extent the Commission approves a list of services to be provided and taken pursuant to one or more utility-to-utility service agreements, then Customer Information may be disclosed pursuant to the foregoing exception to the extent necessary for such services to be performed.
 - (ii) DENC may disclose Customer Information to its Nonpublic Utility Operations without Customer consent to the extent necessary for the Nonpublic Utility Operations to provide goods or services to DENC and upon the written agreement of the Nonpublic Utility Operations to protect the confidentiality of such Customer Information.
 - (iii) DENC and PSNC may disclose Customer Information if a state or federal regulatory agency or court of competent jurisdiction over the disclosure of the Customer Information requires the disclosure.
 - (iv) DENC may disclose Customer Information to PJM Interconnection, L.L.C. (PJM), and its Market Monitoring Unit (MMU), without Customer consent, but only to the extent necessary for PJM or PJM's MMU to perform duties for DENC as allowed in Docket No. E-22, Sub 418, the performance of which requires the provision of Customer Information. DENC shall designate Customer Information as confidential, or shall direct PJM and PJM's MMU to treat Customer Information as confidential, prior to such provision, and any Customer Information provided shall be considered to be "a Member's

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confidential data or information” pursuant to, and subject to the provisions of, Section 18.17 of the PJM Operating Agreement; provided, however, that in the event Section 18.17 is changed, the exception provided herein is subject to review by the Commission to determine whether the changed procedures provide sufficient protection. DENC may not authorize PJM or PJM’s MMU to release such Customer Information except as allowed by this section.

- (g) DENC and PSNC shall take appropriate steps to store Customer Information in such a manner as to limit access to those persons permitted to receive it and shall require all persons with access to such information to protect its confidentiality.
- (h) DENC and PSNC shall establish guidelines for its employees and representatives to follow with regard to complying with this Section III.A.2.
- (i) No Service Company employee may use Customer Information to market or sell any product or service to DENC’s or PSNC’s Customers, except in support of a Commission-approved rate schedule or program or a marketing effort managed and supervised directly by DENC or PSNC.
- (j) Service Company employees with access to the Customer Information must be prohibited from making any improper indirect use of the data, including directing or encouraging any actions based on the Customer Information by employees of Service Company that do not have access to such information, or by other employees of Dominion Energy or other Affiliates or Nonpublic Utility Operations of DENC.
- (k) Should any inappropriate disclosure of DENC or PSNC Customer Information occur at any time, DENC or PSNC shall promptly file a statement with the Commission describing the circumstances of the disclosure, the Customer Information disclosed, the results of the disclosure, and the steps taken to mitigate the effects of the disclosure and prevent future occurrences.

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- (l) Notwithstanding the foregoing, PSNC shall not disclose information provided by Nonaffiliated Gas Marketers and Customers to its Gas Marketing Affiliate, unless such parties specifically authorize disclosure of the information.

3. Disclosure of Confidential Systems Operation Information – The disclosure of Confidential Systems Operation Information of DENC and PSNC shall be governed as follows:

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Customers or for PSNC to provide Natural Gas Services to its Customers.

- (vii) Disclosure of the CSOI is necessary for compliance with the Sarbanes-Oxley Act of 2002.
- (b) Any CSOI disclosed pursuant to Section III.A.3.(a)(i)-(vi) shall be disclosed only to employees that need the CSOI for the purposes covered by those exceptions and in as limited a manner as possible. The employees receiving such CSOI must be prohibited from acting as conduits to pass the information to any Affiliate(s) and must have explicitly agreed to protect the confidentiality of such CSOI.
- (c) For disclosures pursuant to Section III.A.3.(a)(vi) and (vii), DENC and PSNC shall include in their annual affiliated transaction reports the following information:
 - (i) The types of CSOI disclosed and the name(s) of the Affiliate(s) to which it is being, or has been, disclosed;
 - (ii) The reasons for the disclosure; and
 - (iii) Whether the disclosure is intended to be a one-time occurrence or an ongoing process.

To the extent a disclosure subject to the reporting requirement is intended to be ongoing, only the initial disclosure and a description of any processes governing subsequent disclosures need to be reported.

- (d) DENC, PSNC, and Service Company employees with access to CSOI must be prohibited from making any improper indirect use of the data, including directing or encouraging any actions based on the CSOI by employees that do not have access to such information, or by other employees of Dominion Energy or other Affiliates or Nonpublic Utility Operations of DENC and PSNC.
- (e) Should the handling or disclosure of CSOI by the Service Company, or another Affiliate or Nonpublic Utility Operation, or its respective employees, result in (i) a violation of DENC's FERC Statement of

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Policy and Code of Conduct (FERC Code), 18 CFR 358 - Standards of Conduct for Transmission Providers (Transmission Standards), or any other relevant FERC standards or codes of conduct, (ii) the posting of such data on an Open Access Same-Time Information System (OASIS) or other Internet website, or (iii) other public disclosure of the data, DENC and PSNC shall promptly file a statement with the Commission in Docket Nos. E-22, Sub 551C, and G-5, Sub 585C, respectively, describing the circumstances leading to such violation, posting, or other public disclosure describing the circumstances leading to such violation, posting, or other public disclosure, any data required to be posted or otherwise publicly disclosed, and the steps taken to mitigate the effects of the current and prevent any future potential violation, posting, or other public disclosure.

- (f) Should any inappropriate disclosure of CSOI occur at any time, DENC or PSNC shall promptly file a statement with the Commission in Dockets No. E-22, Sub 551, and G-5, Sub 585, respectively, describing the circumstances of the disclosure, the CSOI disclosed, the results of the disclosure, and the steps taken to mitigate the effects of the disclosure and prevent future occurrences.
- (g) Unless publicly noticed and generally available, should the FERC Code, the Transmission Standards, or any other relevant FERC standards or codes of conduct be eliminated, amended, superseded, or otherwise replaced, DENC shall file a letter with the Commission in Docket Nos. E-22, Sub 551E, and G-5, Sub 585E, respectively, describing such action within 60 days of the action, along with a copy of any amended or replacement document.

B. Nondiscrimination

1. General – DENC's and PSNC's employees and representatives shall not unduly discriminate against non-Affiliated entities.

2. Preferences – In responding to requests for Electric Services, Natural Gas Services, or both, DENC and PSNC shall not provide any preference to Dominion Energy, another Affiliate, or a Nonpublic Utility

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Operation, or to any customers of such an entity, as compared to non-Affiliates or their customers. Moreover, neither DENC, PSNC, Dominion Energy, nor any other Affiliates shall represent to any person or entity that Dominion Energy, another Affiliate, or a Nonpublic Utility Operation will receive any such preference.

3. Application of Tariffs – DENC and PSNC shall apply the provisions of their respective tariffs equally to Dominion Energy, the other Affiliates, the Nonpublic Utility Operations, and non-Affiliates.

4. Requests for Service:

- (a) DENC and PSNC shall process all similar requests for Electric Services, Natural Gas Services, or both, in the same timely manner, whether requested on behalf of Dominion Energy, another Affiliate, a Nonpublic Utility Operation, or a non-Affiliated entity.
- (b) PSNC shall treat similarly situated Shippers in the same manner with respect to the delivery of gas on distribution facilities, contract terms, the scheduling of gas supplies, balancing provisions, and allocation of gas supplies and capacity at city gate stations.
- (c) PSNC shall post on its website its criteria for evaluating proposals from Shippers. PSNC shall not give one Shipper any form of preference over other similarly situated Shippers in matters relating to assignment, release, or other transfer of capacity rights on interstate pipeline systems.

5. Speaking for Utility – No Personnel of DENC, PSNC, Dominion Energy, or another Affiliate shall indicate, represent, or otherwise give the appearance to another party that Dominion Energy or another Affiliate speaks on behalf of DENC or PSNC; provided, however, that this prohibition shall not apply to employees of Service Company providing Shared Services or to employees of another Affiliate to the extent explicitly provided for in an affiliate agreement that has been accepted by the Commission. In addition, no Personnel of a Nonpublic Utility Operation shall indicate, represent, or otherwise give the appearance to another party that they speak on behalf of DENC's or PSNC's regulated public utility operations.

6. Advantages – No Personnel of DENC, PSNC, Dominion Energy, another Affiliate, or a Nonpublic Utility Operation shall indicate, represent, or otherwise give the appearance to another party that any advantage to that party with regard to Electric Services or Natural Gas

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Services exists as the result of that party dealing with Dominion Energy, another Affiliate, or a Nonpublic Utility Operation, as compared with a non-Affiliate.

7. Tying – DENC and PSNC shall not condition or otherwise tie the provision or terms of any Electric Services or Natural Gas Services to the purchasing of any goods or services from, or the engagement in business of any kind with, Dominion Energy, another Affiliate, or a Nonpublic Utility Operation.

8. Information to Customers:

- (a) When any DENC or PSNC Personnel receives a request for information from or provides information to a Customer about goods or services available from Dominion Energy, another Affiliate, or a Nonpublic Utility Operation, the Personnel shall advise the Customer that such goods or services may also be available from non-Affiliated suppliers.
- (b) All PSNC information pertaining to interstate pipeline transportation, storage, distribution, or gas supply that is provided to a Gas Marketing Affiliate shall be made available to all Shippers on a contemporaneous, nondiscriminatory, and non-preferential basis by posting the information on its website and provided in a written form upon the request of a Shipper. Aggregate customer information and market data made available to Shippers shall be made available on a similar basis.
- (c) PSNC shall post on its website a current list of contact persons and telephone numbers of all gas marketers that are active on its system.

9. Disclosure of Customer Information – Disclosure of Customer Information to Dominion Energy, another Affiliate, or a Nonpublic Utility Operation, or a non-Affiliated entity shall be governed by Section III.A.2. of this Code of Conduct.

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non-utility generator, PSNC's response to the request, and the status of the inquiry.

C. Marketing

1. Joint Marketing – The public utility operations of DENC and PSNC may engage in joint sales, joint sales calls, joint proposals, or joint advertising (a joint marketing arrangement) with their Affiliates and with their Nonpublic Utility Operations, subject to compliance with other provisions of this Code of Conduct and any conditions or restrictions that the Commission may hereafter establish. DENC and PSNC shall not otherwise engage in such joint activities without making such opportunities available to comparable third parties.

2. Affiliate Disclaimers – Neither Dominion Energy nor any of the other Affiliates shall use the names or logos of DENC or PSNC in any communications targeted at DENC's or PSNC's North Carolina service territories without the following disclaimers:

- (a) “[Dominion Energy/Affiliate] is not the same company as [DENC/PSNC], and [Dominion Energy/Affiliate] has separate management and separate employees;”
- (b) “[Dominion Energy/Affiliate] is not regulated by the North Carolina Utilities Commission or in any way sanctioned by the Commission;”
- (c) “Purchasers of products or services from [Dominion Energy/Affiliate] will receive no preference or special treatment from [DENC/PSNC];” and
- (d) “A customer does not have to buy products or services from [Dominion Energy/Affiliate] in order to continue to receive the same safe and reliable electric service from DENC or natural gas service from PSNC.”

3. Nonpublic Utility Operations Disclaimers:

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and is not in any way sanctioned by the North Carolina Utilities Commission:"

- (b) Nonpublic Utility Operations may not use the names or logos of DENC or PSNC in any communications targeted at DENC's or PSNC's North Carolina service territories without the following disclaimers:
 - (i) "Purchasers of [name of product or service being offered by Nonpublic Utility Operation] from [Nonpublic Utility Operation] will receive no preference or special treatment from [DENC/PSNC];" and
 - (ii) "A customer does not have to buy this product or service from [Nonpublic Utility Operation] in order to continue to receive the same safe and reliable electric service from [DENC/PSNC]."

The required disclaimers in this Section III.C.3.(b) must be sized and displayed in a way that is commensurate with the name and logo so that the disclaimer is at least the larger of one-half the size of the type that first displays the name and logo or the predominant type used in the communication.

D. Transfers of Goods and Services, Transfer Pricing, and Cost Allocation

1. Cross-Subsidies – Cross-subsidies involving DENC or PSNC and Dominion Energy, other Affiliates, or the Nonpublic Utility Operations are prohibited.

2. Charging of Costs – All costs incurred by Personnel of DENC or PSNC for or on behalf of Dominion Energy, other Affiliates, or the Nonpublic Utility Operations shall be charged to the entity responsible for the costs.

3. General Transfer Pricing Guidelines – The following conditions shall apply as a general guideline to the transfer prices charged for goods and services, including the use or transfer of Personnel, exchanged between and among DENC or PSNC, and, Dominion Energy, the other Non-Utility Affiliates, and the Nonpublic Utility Operations, to the extent such prices affect DENC's or PSNC's operations or costs of utility service:

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- (a) Except as otherwise provided for in this Section III.D., for untariffed goods and services provided by DENC or PSNC to Dominion Energy, a Non-Utility Affiliate, or a Nonpublic Utility Operation, the transfer price paid to DENC or PSNC shall be set at the higher of Market Value or DENC's or PSNC's Fully Distributed Cost.
- (b) Except as otherwise provided for in this Section III.D., for goods and services provided, directly or indirectly, by Dominion Energy, a Non-Utility Affiliate other than Service Company, or a Nonpublic Utility Operation to DENC or PSNC, the transfer price(s) charged by Dominion Energy, the Non-Utility Affiliate, and/or the Nonpublic Utility Operation to DENC or PSNC shall be set at the lower of Market Value or Dominion Energy's, the Non-Utility Affiliate's, or the Nonpublic Utility Operation's Fully Distributed Cost(s). If DENC or PSNC does not engage in competitive solicitation and instead obtains the goods or services from Dominion Energy, a Non-Utility Affiliate, or a Nonpublic Utility Operation, DENC and PSNC shall implement adequate processes to comply with this Code provision and related Regulatory Conditions and ensure that in each case DENC's and PSNC's Customers receive service at the lowest reasonable cost, unless otherwise directed by order of the Commission. For goods and services provided by Service Company to DENC, PSNC, and Utility Affiliates, the transfer price charged shall be set at Service Company's Fully Distributed Cost.
- (c) Tariffed goods and services provided by DENC and PSNC to Dominion Energy, other Affiliates, or a Nonpublic Utility Operation shall be provided at the same prices and terms that are made available to Customers having similar characteristics with regard to Electric Services or Natural Gas Services under the applicable tariff.
- (d) With the exception of gas supply transactions, transportation transactions, or both, between DENC and PSNC, untariffed non-power, non-generation, or non-fuel goods and services provided by DENC or PSNC to DENC, PSNC, or the other Utility Affiliates or by the Utility Affiliates to DENC or PSNC shall be transferred at the supplier's Fully Distributed

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Cost, unless otherwise directed by order of the Commission.

- (e) All PSNC deliveries to DENC pursuant to intrastate negotiated sales or transportation arrangements and combinations of sales and transportation transactions shall be at the same price and terms that are made available to other Shippers having comparable characteristics, such as nature of service (firm or interruptible, sales or transportation), pressure requirements, nature of load (process/heating/electric generation), size of load, profile of load (daily, monthly, seasonal, annual), location on PSNC's system, and costs to serve and rates. PSNC shall maintain records in sufficient detail to demonstrate compliance with this requirement.
- (f) All gas supply transactions, interstate transportation and storage transactions, and combinations of these transactions, between DENC and PSNC shall be at the fair market value for similar transactions between non-affiliated third parties. DENC and PSNC shall maintain records, such as published market price indices, in sufficient detail to demonstrate compliance with this requirement.
- (g) All of the margins, also referred to as net compensation, received by PSNC on secondary market sales to DENC shall be recorded in PSNC's Deferred Gas Cost Accounts and shall flow through those accounts for the benefit of ratepayers. None of the margins on secondary market sales by PSNC to DENC shall be included in the secondary market transactions subject to the sharing mechanism on secondary market transactions approved by the Commission in its Order Approving Stipulation, dated December 22, 1995, in Docket No. G-100, Sub 67. The sharing percentage on secondary market sales shall not be considered in determining the prudence of such transactions.

4. Shared Services Pricing – To the extent that DENC, PSNC, Dominion Energy, other Affiliates, or the Nonpublic Utility Operations receive Shared Services from Service Company (or its successor), these Shared Services may be jointly provided to DENC, PSNC, Dominion Energy, other

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Affiliates, or the Nonpublic Utility Operations on a Fully Distributed Cost basis, provided that the taking of such Shared Services by DENC and PSNC is cost beneficial on a service-by-service (e.g., accounting management, human resources management, legal services, tax administration, public affairs) basis to DENC and PSNC. Charges for such Shared Services shall be allocated in accordance with the Service Company cost allocation manual filed with the Commission pursuant to Regulatory Condition 4.4, subject to any revisions or other adjustments that may be found appropriate by the Commission on an ongoing basis.

5. Joint Purchases – DENC, PSNC, and their Utility Affiliates may capture economies-of-scale in joint purchases of goods and services (excluding the purchase of electricity or ancillary services intended for resale unless such purchase is made pursuant to a Commission-approved contract or service agreement), if such joint purchases result in cost savings to DENC's and PSNC's Customers. DENC, PSNC, and their Utility Affiliates may capture economies-of-scale in joint purchases of coal and natural gas, if such joint purchases result in cost savings to DENC's and PSNC's Customers. All joint purchases entered into pursuant to this section shall be priced in a manner that permits clear identification of each participant's portion of the purchases and shall be reported in DENC's and PSNC's affiliated transaction reports filed with the Commission.

6. Accounting – All permitted transactions between DENC, PSNC, Dominion Energy, other Affiliates, and the Nonpublic Utility Operations shall be recorded and accounted for in accordance with the cost allocation manual required to be filed with the Commission pursuant to Regulatory Condition 4.4 and with Affiliate agreements accepted by the Commission or otherwise processed in accordance with North Carolina law, the rules and orders of the Commission, and the Regulatory Conditions.

7. Information Costs – Costs that DENC and PSNC incur in assembling, compiling, preparing, or furnishing requested Customer Information or CSOI for or to Dominion Energy, other Affiliates, or the Nonpublic Utility Operations shall be recovered from the requesting party pursuant to Section III.D.3. of this Code of Conduct.

8. Transfers of Technology and Trade Secrets – Any technology or trade secrets developed, obtained, or held by DENC or PSNC in the conduct of regulated operations shall not be transferred to Dominion Energy, another Affiliate, or a Nonpublic Utility Operation without just compensation and the filing of 60-days prior notification to the Commission. DENC and PSNC are not required to provide advance notice for such transfers to each other and may request a waiver of this requirement from the Commission with respect to such transfers to Dominion Energy, a Utility Affiliate, a Non-Utility Affiliate, or a Nonpublic Utility Operation. In no case, however, shall the notice period requested be less than 20 business days.

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9. Intangible Benefits – DENC and PSNC shall receive compensation from Dominion Energy, other Affiliates, and the Nonpublic Utility Operations for intangible benefits, if appropriate.

E. Regulatory Oversight

1. Affiliate Transactions – The requirements regarding affiliate transactions set forth in G.S. 62-153 shall continue to apply to all transactions between DENC, PSNC, Dominion Energy, and the other Affiliates.

2. Books and Records – The books and records of DENC, PSNC, Dominion Energy, other Affiliates, and the Nonpublic Utility Operations shall be open for examination by the Commission, its staff, and the Public Staff as provided in G.S. 62-34, 62-37, and 62-51.

3. Generator Supply Services:

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Nonpublic Utility Operation, or a non-Affiliated third party, the charges for Electric Services and Natural Gas Services shall be separated from the charges for any other services included on the bill. Each such bill shall contain language in bold print stating that the Customer's Electric Services and Natural Gas Services, as applicable, will not be terminated for failure to pay for any other services billed.

G. Complaint Procedure

1. Procedures – DENC and PSNC shall establish procedures to resolve potential complaints that arise due to the relationship of DENC and PSNC with Dominion Energy, the other Affiliates, and the Nonpublic Utility Operations. The complaint procedures shall provide for the following:

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Without limitation as to the full range of potential competitive activity, DENC and PSNC shall maintain the following minimum standards:

1. PSNC will make all reasonable efforts to extend the availability of natural gas to as many new customers as possible.
2. In determining where and when to extend the availability of natural gas, PSNC will at a minimum apply the same standards and criteria that it applied prior to the Merger.
3. In determining where and when to extend the availability of natural gas, PSNC will make decisions in accordance with the best interests of PSNC, rather than the best interest of DENC.
4. To the extent that either the natural gas industry or the electricity industry is further restructured, DENC and PSNC will undertake to maintain the full level of competition intended by this Code of Conduct subject to the right of DENC, PSNC or the Public Staff to seek relief from or modifications to this requirement by the Commission.

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CODE OF CONDUCT ATTACHMENT

DENC/PSNC CUSTOMER INFORMATION DISCLOSURE AUTHORIZATION

For Disclosure to Affiliates:

DENC's/PSNC's Affiliates offer products and services that are separate from the regulated services provided by DENC/PSNC. These services are not regulated by the North Carolina Utilities Commission. These products and services may be available from other competitive sources.

The Customer authorizes DENC/PSNC to provide any data associated with the Customer accounts(s) residing in any DENC/PSNC files, systems, or databases **[or specify specific types of data]** to the following Affiliate(s):
_____. DENC/PSNC will provide this data on a nondiscriminatory basis to any other person or entity upon the Customer's authorization.

For Disclosure to Non-Affiliates:

The Customer authorizes DENC/PSNC to provide any data associated with the Customer accounts(s) residing in any DENC/PSNC files, systems, or databases **[or specify specific types of data]** to the following non-Affiliate(s):
_____.

For Disclosure to Nonpublic Utility Operations:

DENC/PSNC offers optional, market-based products and services that are separate from the regulated services provided by DENC/PSNC. These services are not regulated by the North Carolina Utilities Commission. These products and services may be available from other competitive sources.

The Customer authorizes DENC/PSNC to provide any data associated with the Customer accounts(s) residing in any DENC/PSNC files, systems, or databases **[or specify specific types of data]** for the purpose of offering and providing energy-related products or services to the Customer. DENC/PSNC will provide this data on a nondiscriminatory basis to any other person or entity upon the Customer's authorization.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Agreement and Stipulation of Settlement Between the Applicants, Transco and the Public Staff has been served on all parties of record or their attorneys, or both, by U.S. mail, first class or better; by hand delivery; or by means of facsimile or electronic delivery upon agreement of the receiving party.

This the 4th day of October, 2018.

/s/Mary Lynne Grigg

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*Attorney for Dominion Energy, Inc. and
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BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2011-158-E - ORDER NO. 2012-517
JULY 11, 2012

IN RE: Application of Duke Energy Corporation and)	ORDER APPROVING
Progress Energy, Inc. on Behalf of Their)	JOINT DISPATCH
Electrical Utility Subsidiaries, Duke Energy)	AGREEMENT
Carolinas, LLC and Progress Energy)	
Carolinas, Inc. to Engage in a Business)	
Combination Transaction)	

I. INTRODUCTION

Pursuant to S.C. Code Ann. § 58-27-1300 (Supp. 2011) and S.C. Code Ann. Reg. 103-823, on April 25, 2011, Duke Energy Corporation (“Duke”)¹ and Progress Energy, Inc. (“Progress”)² (collectively referred to as “the Applicants”), on behalf of their utility subsidiaries Duke Energy Carolinas, LLC (“DEC”) and Progress Energy Carolinas, Inc. (“PEC”), applied to the Public Service Commission of South Carolina (“the Commission”) for approval of the merger of DEC and PEC, and approval of a joint dispatch agreement (“JDA”).³ In their Application, the Applicants explained that Duke and Progress have entered into a business combination

¹Duke is a corporation organized and existing under the laws of the State of Delaware. Duke is the sole owner of DEC. DEC is an electric public utility organized, existing and operating under the laws of the State of North Carolina, and is authorized to generate, transmit and distribute electric power in its service territory in North Carolina and South Carolina.

²Progress is a corporation organized and existing under the laws of the State of North Carolina. Progress is the sole owner of PEC. PEC is an electric public utility organized, existing and operating under the laws of the State of North Carolina and is authorized to generate, transmit and distribute electric power in its service territory in North Carolina and South Carolina.

³ This present Commission Order necessarily reflects the ruling made by the Commission on the basis of the record before it as of 11:30 a.m. on July 2, 2012, when the Commission vote on this Application was taken, and does not address any events occurring subsequent to that ruling.

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agreement (“the Merger Agreement”) pursuant to which Duke will acquire all of the issued and outstanding common stock of Progress in exchange for shares of Duke’s common stock.⁴ (Hereinafter the proposed merger of Duke and Progress shall be referred to as “the Merger”).

As part of the parties’ presentation of evidence to this Commission at hearing on December 12, 2011, we heard testimony concerning the Merger of Duke Energy Corporation and Progress Energy, Incorporated. Based on the record before us, there is an absence of harm to South Carolina ratepayers as a result of the proposed Merger. Therefore, we do not have to reach the question of whether such harm, if present, would have justified jurisdiction of this Commission over the Merger to the extent necessary to address such harm to this state’s ratepayers.

Under the terms of the Merger Agreement, Progress shareholders will receive 2.6125 shares of Duke common stock for each share of Progress common stock they own upon the closing of the transaction. This exchange ratio will be adjusted to 0.87083 shares of Duke stock for each Progress share, to account for a one-for-three reverse stock split to be effected by Duke in connection with the closing of the transaction, as further described in the Merger Agreement. The combined company will maintain the name of Duke Energy, with corporate headquarters in Charlotte, North Carolina. Progress will become a subsidiary of Duke, and both Progress and PEC will continue to exist as separate legal entities.

Subject to approval by the appropriate regulatory commissions, PEC and DEC plan to merge into a single legal entity at some point in the future; however, such merger will not occur until numerous aspects of the utilities’ operations are addressed, including but not limited to

⁴ Progress common stock owned by Duke or Progress (other than in a fiduciary capacity) will not be included in the exchange. Such stock will automatically be canceled and retired.

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determination of best business practices, operating procedures, equipment specifications, uniform rate schedules, service regulations, and computer systems.

Pursuant to the JDA, PEC will transfer operational control of its generating assets to DEC. The combined DEC and PEC generating assets would then be jointly dispatched to serve the combined load of DEC and PEC in the most cost effective manner possible.

Intervenors in the proceeding included the Southern Alliance for Clean Energy, the Environmental Defense Fund, the South Carolina Coastal Conservation League (collectively “the Environmental Intervenors”), South Carolina Electric & Gas Company (“SCE&G”), Nucor Steel-South Carolina (“Nucor”), the City of Orangeburg, the South Carolina Energy Users Committee (“SCEUC”), Central Electric Power Cooperative, Inc., the Electric Cooperatives of South Carolina, Inc., and the International Brotherhood of Electrical Workers (“IBEW”). The South Carolina Office of Regulatory Staff (“ORS”) was a party pursuant to S.C. Code Ann. § 58-4-10 (Supp. 2011).

By letter dated September 13, 2011, the Applicants notified the Commission that they were withdrawing their Application for approval of the merger of DEC and PEC. The Applicants stated that it was premature to be seeking such approval given that the actual merger of the two utilities would not occur for several years. ORS and the intervenors did not oppose the withdrawal of the Application for approval of the merger of PEC and DEC.

A hearing in this matter was initially scheduled to begin October 26, 2011, with the Applicants’ direct testimony to be filed by September 14, 2011. On September 14, 2011, the Applicants filed the joint testimony of James E. Rogers and William D. Johnson, and the testimonies of Lynn J. Good, Dr. Joseph P. Kalt, and Alexander J. (Sasha) Weintraub.

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On October 4, 2011, ORS, Central Electric Power Cooperative and the Electric Cooperatives of South Carolina, Inc. filed a joint motion to hold the hearing and procedural schedule in this matter in abeyance until the Federal Energy Regulatory Commission (“FERC”) ruled upon a market power mitigation proposal that FERC required the Applicants to file as a condition of FERC merger approval. On October 10, 2011, DEC and PEC filed a response to the joint motion to hold the proceeding in abeyance. DEC and PEC did not oppose the joint motion, but requested that the Commission reschedule testimony filing dates and the hearing in this matter as soon as possible after the filing of the Applicants’ mitigation proposal with FERC. The Commission granted the motion to hold the hearing and procedural schedule in abeyance.

On October 24, 2011, ORS, Central Electric Power Cooperative and the Electric Cooperatives of South Carolina, Inc. filed a joint motion to establish a new procedural schedule. By Order No. 2011-816, issued November 2, 2011, the Commission: granted the motion to establish new testimony filing dates and hearing date; rescheduled the hearing to begin December 12, 2011; required DEC and PEC to file supplemental testimony on November 10, 2011, to discuss the market power issues raised by FERC in its September 30, 2011, order conditionally approving the Merger, and explaining DEC’s and PEC’s market power mitigation proposal filed with FERC in response; and scheduled intervenor, rebuttal, and surrebuttal testimony to be filed November 17, 2011, November 30, 2011, and December 7, 2011, respectively.

Pursuant to Commission Order No. 2011-816, DEC and PEC filed the supplemental testimony of Alexander J. Weintraub on November 10, 2011. On November 17, 2011, the ORS filed the direct testimony of Jonathan Falk, the City of Orangeburg filed the direct testimony of John Bagwell, and the Environmental Intervenors filed the direct testimony of Richard Hahn.

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DEC and PEC filed the joint rebuttal testimony of James E. Rogers and William D. Johnson and the rebuttal testimonies of Lynn J. Good, Alexander J. Weintraub, and Dr. Joseph P. Kalt on November 30, 2011. On December 8, 2011, the Environmental Intervenors and the Applicants entered into a Settlement Agreement which was submitted to this Commission for approval. Concurrently, the Environmental Intervenors withdrew the testimony of Richard Hahn. Also, on December 8, 2011, in response to the Environmental Intervenors' withdrawal of the testimony of Richard Hahn, DEC and PEC withdrew the rebuttal testimony of Lynn J. Good and filed the revised joint testimony of James E. Rogers and William D. Johnson, and the revised testimonies of Alexander J. Weintraub and Dr. Joseph P. Kalt.

The hearing on this matter commenced as scheduled on December 12, 2011. At the hearing, Len S. Anthony and Kendal C. Bowman represented PEC. Kodwo Ghartey-Tagoe and Frank R. Ellerbe, III represented DEC. Courtney D. Edwards and Nanette S. Edwards represented the ORS. Christopher R. Koon, Douglas Jennings, Jr., and John H. Tiencken represented Central Electric Power Cooperative, Inc. and the Electric Cooperatives of South Carolina, Inc. James N. Horwood and Pablo O. Nuesch represented the Department of Public Utilities of the City of Orangeburg. Gudrun Elise Thompson and J. Blanding Holman IV represented the Environmental Intervenors. Michael K. Lavanga and Robert R. Smith II represented Nucor. K. Chad Burgess represented SCE&G. Scott Elliott represented SCEUC.

On December 13, 2011, the Applicants submitted a letter to the Commission to memorialize the stipulation and commitment made by the Applicants during the hearing held December 12, 2011. The letter stated that, as a condition for Commission approval of the proposed JDA between DEC and PEC, DEC and PEC will provide the Commission a "most

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favorable nations" commitment. Among other things, the "most favored nations" commitment guarantees this Commission and DEC's and PEC's retail customers pro rata benefits equivalent to those approved by the North Carolina Utilities Commission in its order ruling upon Duke Energy Corporation's and Progress Energy, Inc.'s Merger Application. The December 13, 2011, commitment letter is attached to this order as Appendix A.

On December 14, 2011, the FERC issued an Order in which it found the Applicants' proposed market power mitigation plan was inadequate to address the wholesale market power concerns raised in the FERC's September 30, 2011, Order. On that same date, the FERC also issued an Order dismissing the Applicants' Application for approval of the JDA without prejudice to the Applicants' right to file revised proposals.

The Commission initially scheduled the filing of proposed orders for December 20, 2011. DEC, PEC, the ORS, Central Electric Power Cooperative, Nucor Steel-South Carolina and the Electric Cooperatives of South Carolina, Inc. filed a Joint Proposed Order. The City of Orangeburg also filed a Proposed Order.

On January 12, 2012, PEC and DEC filed with the Commission a letter containing a status report of the Merger activities before the North Carolina Utilities Commission ("NCUC") and FERC. On February 22, 2012, PEC and DEC filed with the Commission a copy of the advance notice filed with the NCUC notifying the NCUC that Progress and Duke would be filing a Revised Market Power Mitigation Plan with FERC upon the expiration of the notice period. On March 26, 2012, PEC and DEC filed with the Commission the Revised Market Power Mitigation Plan that was filed with FERC that same date. The Revised Market Power

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Mitigation Plan was filed by Progress and Duke pursuant to the FERC's December 14, 2011, Order.

On May 16, 2012, PEC and DEC filed with the Commission a letter advising the Commission that PEC and DEC had made certain commitments to the ORS with regard to the Revised Market Power Mitigation Plan filed with FERC on March 26, 2012. The first commitment relates to the allocation of costs associated with interim wholesale mitigation power sales to be made by PEC and DEC for approximately 3 years following the close of the Merger. The letter described the methodology to be used to allocate costs to these sales and the calculation of a decrement rider to be filed by PEC and DEC to their retail South Carolina rates within 30 days after the Merger closes to provide their South Carolina retail customers the benefit of this allocation of costs away from retail to these wholesale sales. The second commitment relates to the permanent transmission market power mitigation element of the Revised Market Power Mitigation Plan. PEC and DEC committed not to seek recovery of any of the costs associated with certain new transmission facilities constructed to mitigate the merged company's wholesale market power from their South Carolina retail customers for a period of five years following the closing of the Merger. After five years, PEC and DEC may seek recovery of these transmission costs from their South Carolina retail customers if they can show that, absent the Merger, the transmission facilities are needed to provide adequate and reliable retail service and the construction of the facilities and incurrence of the costs would have been reasonable and prudent. The letter's third commitment was a re-affirmation of their commitment and guarantee, described during the December 12, 2011, hearing, and summarized in the utilities' December 13, 2011, letter filed with the Commission, to provide their retail

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South Carolina customers pro rata benefits equivalent to those approved by the North Carolina Utilities Commission in its order ruling upon Duke's and Progress' Merger Application. The May 16, 2012, commitment letter, along with the clarifying letter of May 21, 2012 referenced below, are attached to this order as Appendix B.

On May 21, 2012, PEC and DEC filed a follow-up letter explaining that nothing that had occurred in the NCUC Merger proceeding and none of the commitments contained in the May 16, 2012, letter to the Commission alter or affect the JDA. *See* Appendix B. The May 21, 2012, letter also clarified that the costs associated with the interim wholesale market power sales would be allocated to those specific wholesale transactions and not PEC's and DEC's wholesale jurisdiction as a whole.

By Order No. 2012-425, on May 23, 2012, the Commission ordered the parties to this proceeding to file verified testimony by June 4, 2012, concerning the developments regarding the Merger occurring subsequent to the December 12, 2011, hearing. The Commission asked the parties to address, in particular, activities and filings before the NCUC and FERC. Responses to such testimony were to be filed by June 11, 2012. The Commission further ruled that it would decide on June 13, 2012, whether further hearings in this docket were required. On June 4, 2012, PEC and DEC filed the additional direct testimony of Sasha Weintraub. On June 11, 2012, the ORS, Central Electric Power Cooperative and the Electric Cooperatives of South Carolina, Inc., filed letters in support of approval of the JDA on a one year trial basis.

On June 8, 2012, FERC approved the JDA, PEC's and DEC's Joint Open Access Transmission Tariff, and the Merger of Progress and Duke, with certain conditions, and provided that certain revisions be made to the JDA. On June 12, 2012, PEC and DEC filed with

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the Commission a revised JDA reflecting the changes required by FERC. In the transmittal letter, PEC and DEC explained that the revisions do not impact any of the potential savings to be realized from the joint dispatch of PEC's and DEC's generation facilities, or otherwise harm South Carolina retail customers. On June 13, 2012, PEC and DEC filed the verified testimony of Sasha Weintraub, explaining the revisions to the JDA and affirming that such changes do not harm South Carolina retail customers or reduce the benefits to be derived from joint dispatch.

On June 13, 2012, by Order No. 2012-473, the Commission ordered that any responses to the revised JDA or the verified testimony of Sasha Weintraub had to be filed by June 15, 2012. The Commission further held that no further hearings were necessary and that proposed orders were to be filed on June 22, 2012. The only filing made by any party on June 15, 2012, was a filing by the ORS stating that they had no further comments. A Joint Proposed Order was filed on June 22, 2012, by DEC, PEC, the ORS, Nucor Steel-South Carolina, Central Electric Power Cooperative and the Electric Cooperatives of South Carolina, Inc. A Proposed Order was also filed on June 22, 2012, by the Intervenor, City of Orangeburg.

II. DISCUSSION

A. FERC APPROVAL OF THE MERGER AND JDA

As explained in the supplemental pre-filed testimony of Applicants' witness Weintraub, on September 30, 2011, FERC conditionally approved the Merger of Progress and Duke. However, FERC found "screen failures" with respect to the market for short-term energy during the summer and winter periods in the DEC Balancing Authority Area ("BAA") and the summer period in the PEC East BAA. A "screen failure" means that the increase in the concentration of ownership of short-term energy resulting from the Merger exceeds certain thresholds

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established by FERC. As a result, FERC required PEC and DEC to submit a mitigation proposal to eliminate any potential for the exercise of market power by PEC and DEC during these periods. Tr. pp. 150-152.

The Applicants submitted a market power mitigation proposal that required PEC and DEC to offer to sell for resale in their BAAs a certain amount of excess generation during these time periods. PEC would be required to offer to sell all excess generation up to 500 MWs during the summer months. DEC would be required to offer to sell excess generation up to 300 MWs during the summer months and 225 MWs during the winter months. The price at which this excess generation would be sold would be the average incremental cost of the generation plus 10%. PEC and DEC would offer this energy on a daily basis. The proposed term of the mitigation proposal was eight years. Under the proposed mitigation plan, both PEC and DEC would be allowed to cancel any sale made if PEC or DEC needed that generation to reliably meet its retail or native load firm wholesale customers' needs. Tr. pp. 152-153.

By Order issued on December 14, 2011, FERC found the Applicants' Market Power Mitigation Proposal to be inadequate and afforded the Applicants an opportunity to file a revised, more comprehensive, market power mitigation plan in order to obtain unconditional FERC approval of the Merger and JDA. In his Additional Direct Testimony filed on behalf of PEC and DEC on June 4, 2012, pursuant to the Commission's Order No. 2012-425, Mr. Weintraub explained that on March 26, 2012, in response to FERC's December 14, 2011, Order, the Applicants filed a Revised Mitigation Proposal with FERC. The Revised Mitigation Proposal had two elements: an interim mitigation component that involved the sale of capacity and energy to third party wholesale market participants; and a permanent mitigation component

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that involved the construction of new transmission facilities. As proposed, the interim mitigation sales would terminate once all of the new transmission facilities had been constructed and placed into service.

The interim mitigation sales were proposed in recognition of the fact that, until the permanent transmission expansion projects are placed in service, FERC's market power concerns would continue. DEC and PEC have entered into firm power sales agreements ("PSAs") with Cargill, Electricite de France (EDF), and Morgan Stanley to effectuate the interim mitigation sales. The energy sold pursuant to the PSAs will be firm in all hours of those seasons when mitigation is required. There are no restrictions on the use of energy by the purchasers after it is purchased. Any interruption of deliveries of energy by DEC or PEC will result in the payment of liquidated damages if the contract price of power to be sold is below the market unless that interruption is excused on *force majeure* grounds.

Mr. Weintraub testified that sales under the PSAs will commence the first day after the Merger is closed. The term of each of PEC's PSAs will extend through August 31, 2014. The term of DEC's PSA will extend through February 28, 2015. These dates ensure that the interim mitigation will be in place until the permanent mitigation transmission expansion projects are expected to be completed.

Mr. Weintraub then explained that the Applicants' permanent mitigation proposal consists of the construction of seven transmission expansion projects in order to increase transmission import capability into the PEC East and DEC BAAs. The projects provide permanent structural mitigation of FERC's market power concerns. In addition to these seven

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projects, PEC is accelerating the in-service date of PEC's already-planned Greenville – Kinston DuPont 230 kV Line from 2017 to 2015.

According to Mr. Weintraub, these transmission expansion projects completely mitigate all market power issues in the DEC BAA, and also completely mitigate all market power issues in the PEC East BAA except for the Summer Off-Peak in the Base Case. To address this single screen failure, DEC and PEC indicated they were willing to agree to set-aside a portion of the expanded transmission capacity from the DEC BAA to the PEC East BAA. Under this proposal, only unaffiliated third parties would be permitted to reserve the set-aside amount on a firm basis. This set-aside would ensure that DEC and PEC would not have access to the set-aside amount of transmission capacity into the PEC East BAA from the Duke BAA on a firm basis, and thereby would fully mitigate the one small screen failure remaining after the transmission projects are completed.

Finally, Mr. Weintraub testified that DEC and PEC proposed that three aspects of the Revised Mitigation Proposal be subject to monitoring by Potomac Economics as an independent monitor. First, Potomac Economics would monitor the PSAs to ensure they remain in effect until the transmission expansion projects are complete. If any of the PSAs terminated prior to completion of the transmission projects, Potomac Economics would monitor whether such PSA is replaced with a new PSA under materially the same terms and conditions. Second, Potomac Economics would monitor the extent to which the Applicants are pursuing the transmission expansion projects within the scope and time frame projected and will report to FERC when the projects have been completed and placed in service. Third, if FERC requires PEC or DEC to

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set aside portions of the enhanced transmission capability created by these projects, Potomac Economics would monitor the Applicants' compliance with such a transmission use limitation.

As referenced above, by letter filed with the Commission by PEC and DEC on May 16, 2012, PEC and DEC advised the Commission of certain commitments made by PEC and DEC to the ORS with regard to the Revised Mitigation Proposal. The May 16, 2012, letter, along with the clarifying letter of May 21, 2012, are attached as Appendix B to this Order. In this letter, PEC and DEC stated that the costs of the generation capacity used to effectuate the interim mitigation wholesale sales will be allocated to these sales. The capacity costs will be calculated based upon the revenue requirement associated with a utility-specific proxy for the capacity costs of the generating facilities expected to be on the margin during the months and hours the sales will be made, which are assumed to be between July 1, 2012, through May 31, 2015. DEC and PEC will each develop a decrement rider to their respective South Carolina retail rates that reflects these capacity costs. DEC and PEC will file the decrement riders for approval with the Commission and provide a copy to ORS within 30 days after the Merger closes. Upon approval by the Commission, the decrement riders will be fixed and remain in effect and without any future true-ups until the date the interim market power mitigation sales terminate plus the number of days between when such sales began and the time the decrement riders became effective. Provided, however, that if a portion of the interim sales terminate, the riders shall be reduced in proportion to the terminated sales. Appropriate decrement riders will continue in effect until such time as the utilities are relieved of their respective obligations to

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make the interim mitigation sales. The total system costs of capacity to be allocated away from retail are \$43,458,315 for DEC and \$21,194,759⁵ for PEC.

DEC and PEC further committed not to seek to recover from their South Carolina retail customers any of the non-fuel variable operating and maintenance costs associated with the interim mitigation sales. They further committed not to seek to recover from their South Carolina retail customers any revenue shortfalls resulting from, or any costs associated with, the interim mitigation sales (including but not limited to any negative capacity payments), any revenue deficiency resulting from energy revenues being less than the associated costs and any payment of liquidated damages.

With regard to the permanent transmission mitigation plan, DEC and PEC committed not to seek recovery of any costs associated with the transmission projects in their respective South Carolina retail rates until the expiration of five (5) years following the close of the Merger, and any such request must include a showing that, absent the Merger and the resulting mitigation requirement, the project is needed to provide adequate and reliable retail service and, at the time the request is made, the construction of the project and the incurrence of the associated costs would have been reasonable and prudent. These cost recovery prohibitions do not apply to the Greenville-Kinston-DuPont transmission line project because PEC is simply accelerating the construction of this project.

Finally, DEC and PEC committed not to seek to recover from their South Carolina retail ratepayers any costs associated with running their generating systems on a non-economic basis as a result of their permanent transmission market power mitigation plan to run PEC's Roxboro

⁵ The DEC and PEC South Carolina retail allocable portion would be \$10,316,657 for DEC and \$2,283,121 for PEC.

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and Mayo units at full output when necessary to push back against AEP/PJM power flows into PEC in order to achieve improvement in firm import capability from PJM into PEC-East.

The commitments made by DEC and PEC regarding the Revised Mitigation Proposal are the same as those made to the NCUC. The Commission finds that these commitments properly protect and hold harmless DEC's and PEC's South Carolina retail customers and are approved. DEC and PEC shall comply with and implement these commitments as described in Appendices A and B.

As discussed more thoroughly below, the May 16, 2012 letter also re-affirms DEC's and PEC's commitment and guarantee to provide their retail South Carolina customers pro rata benefits equivalent to those approved by the NCUC in its order ruling upon the Merger Application.

B. MOST FAVORED NATIONS STIPULATION AND BENEFITS OF THE MERGER

During the hearing DEC and PEC made the following commitment and stipulation:

As a condition for Commission approval of the proposed JDA between PEC and DEC, PEC and DEC will provide the Commission a "most favored nations" commitment and will also agree to the ORS proposal for approval of the JDA on a one year trial basis. The "most favored nations" commitment guarantees this Commission and PEC's and DEC's South Carolina retail customers pro rata benefits equivalent to those approved by the North Carolina Utilities Commission ("NCUC") in its order ruling upon Duke Energy Corporation's and Progress Energy, Inc.'s Merger Application.

Tr. pp. 119-120. We also note that, to the extent allowed by South Carolina law, the "most favored nations" commitment extends the protections of the revised Regulatory Conditions and Code of Conduct adopted by the North Carolina Utilities Commission in its June 29, 2012, Order approving the Merger to the South Carolina ratepayers of DEC and PEC. Tr. p. 119.

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Although the Commission's focus in this proceeding is on whether the JDA should be approved, the Commission received extensive evidence on the Merger as well. The Applicants' witnesses Rogers, Johnson, and Good testified that the combined company will be the largest regulated utility in the United States, which will possess the size and scale, diversification, and operational excellence to be the foremost utility in the industry. This will translate into continued financial strength and flexibility for dealing with circumstances such as changing regulatory requirements, volatility in the capital markets, economic downturns, as well as other external influences. Tr. pp. 25, 46-47. Witnesses Rogers, Johnson, and Good advocated that the Merger will produce significant benefits for PEC's and DEC's South Carolina customers. Tr. pp. 26-27, 47.

The witnesses further testified that, post-merger, Duke will maintain strong investment-grade credit ratings. Both Moody's and S&P reviewed the proposed transaction and affirmed the credit ratings of the combined company and its subsidiaries on the date of the Merger announcement. Size, scale, and financial strength are important to investors in the utility industry and will support the combined company's ability to attract capital on favorable terms, which is a clear benefit to customers. Investors will also benefit from more stable returns resulting from a higher proportion of the combined company's operations being regulated businesses. For the year ended December 31, 2010, approximately 79% of Duke's business was regulated, while post-merger regulated operations of the combined company will be 88% of its business. Tr. pp. 25, 47.

Witnesses Rogers, Johnson, and Good testified that the combined company will have greater assurance of access to capital, especially in challenging or volatile market conditions.

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Upon the close of the Merger, according to testimony, S&P's 'CreditWatch' with positive implications designation is expected to result in an upgrade to the new company's A- corporate credit rating for Progress, PEC, and Progress Energy Florida. Such an upgrade would provide additional benefit to Progress' customers by providing greater access to debt financing as well as a lower cost of debt than would otherwise be possible. Tr. pp. 25, 47.

Witnesses Rogers and Johnson testified that the utility industry faces an extended period of extremely large investments in infrastructure replacement, modernization, and expansion. In order to meet the future demand for electricity, these witnesses testified that both companies will have to invest in new generation that will be more costly than the companies' current average embedded costs. PEC and DEC are well into this intense capital investment program. PEC is investing nearly \$2 billion in new natural gas fueled generation. DEC is investing over \$3 billion in new clean coal generation and natural gas fueled generation. Much of this generation is simply replacing aging plants that the utilities have concluded are no longer cost effective to operate. The companies also face significant cost increases in order to comply with new proposed Environmental Protection Agency regulations and Nuclear Regulatory Commission regulations. The resulting large infrastructure investment creates two challenges: 1) raising, on reasonable terms, the capital necessary to finance the plant additions; and 2) minimizing the costs to customers from building and operating these new plants. According to witnesses Rogers and Johnson, the Merger will allow them to address both of these challenges and to mitigate potential impacts. Tr. p. 25.

Witnesses Rogers and Johnson emphasized that an important operational benefit of the Merger is centralized management of the two companies' nuclear fleets. Duke operates seven

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nuclear units, and Progress operates five. Eleven of these 12 nuclear units are in the Carolinas—a geographic proximity that further strengthens the benefits of operating as one large nuclear fleet and particularly supports the combination of these two companies. Additionally, the witnesses stated that the depth and breadth of the combined nuclear management team and workforce is expected to enhance the combined company's ability to operate these plants safely, reliably, and cost effectively. Tr. p. 26.

The Applicants anticipate that, upon the actual integration of Duke's and Progress' service companies, additional cost savings opportunities will be created. This integration transition is expected to be a significant undertaking, and these savings will occur over time as a result of the combination and assimilation of the companies' information technology systems, supply chain functions, generation operations, corporate and administrative programs, and inventories. The Application indicates that there will be up-front costs associated with integrating these functions to yield benefits, but future savings in these areas are expected to be significant. The Applicants testified that customers will receive the benefits of these savings in future rate proceedings. Witnesses Rogers and Johnson emphasized that the synergies and cost savings the Applicants expect to realize over the long term, by merging the two companies' service companies, will help mitigate, to some extent, the cost increases Progress and Duke expect to experience in the future. Tr. p. 26.

The Application explains that the cost savings realized through the integration of the two companies will result in workforce reductions. Over time, Progress, Duke, PEC and DEC expect their combined workforces to be reduced compared to continued operation as unaffiliated companies. To the maximum extent possible, the Applicants commit to manage

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these reductions through normal retirements, employee attrition, voluntary retirement programs and similar measures, rather than through forced layoffs.

C. THE JOINT DISPATCH AGREEMENT AND OTHER SAVINGS

Regarding the JDA, the Applicants' witness Weintraub testified that, upon the closing of the Merger, PEC and DEC will begin significant coordination of their operations. These coordinated operations will produce significant operational efficiencies that will directly benefit customers. The primary benefit will result from transitioning individual dispatch of PEC's and DEC's generating assets to combined dispatch via the JDA.

Witness Weintraub testified that, consistent with PEC's and DEC's reliability and contractual obligations as well as applicable laws and regulations, the JDA will allow DEC's and PEC's generation resources to be dispatched as a single system to meet the two utilities' retail and firm wholesale customers' requirements at the lowest reasonable cost. Under the JDA, DEC will act as the joint dispatcher for DEC's and PEC's power supply resources. The joint dispatch process will allow PEC and DEC to serve their retail and wholesale native load customers more efficiently and economically than they can on a stand-alone basis. Witness Weintraub explained that the JDA also provides a methodology for calculating the savings generated by the joint dispatch process and for equitably allocating the savings between DEC and PEC. Tr. pp. 133-134.

According to witness Weintraub, the JDA expressly provides that it is not intended to act as a system integration agreement and that DEC and PEC will retain their obligations to serve their own native load customers, to fulfill their own contractual obligations, and to operate

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their own transmission systems and BAAs. DEC's and PEC's contractual obligations will not be changed by the JDA. This includes their contractual obligations under existing wholesale power contracts and their obligations under the Virginia-Carolinas (VACAR) reserve sharing arrangement. Tr. p. 134.

Witness Weintraub explained that the joint dispatcher will direct the dispatch of both DEC's and PEC's power supply resources, which includes the parties' generation as well as their wholesale power purchases. In addition, the joint dispatcher will be responsible for making short-term (less than one year) wholesale power purchases and sales on behalf of DEC and PEC. DEC and PEC will retain individual responsibility for entering into wholesale power transactions of a year or longer. In carrying out its responsibilities under the JDA, the joint dispatcher is charged with achieving the most economic dispatch plan to serve DEC's and PEC's native load customers, consistent with the provision of reliable service, industry standards, and applicable laws and regulations. In effect, the joint dispatcher has the same goals as the individual utilities prior to the advent of the JDA. The difference is that the joint dispatcher will consider the loads and resources of both utilities, which will achieve a more economic result than the utilities could achieve on a stand-alone basis. The joint dispatch function will employ the same methodologies as the security-constrained economic dispatch function each company performs pre-merger. The post-merger process will simply integrate both companies' generation resources into the dispatch process. Tr. pp. 134-135.

According to witness Weintraub, in general, the joint dispatcher will not distinguish between the utilities' resources in determining how best to serve the combined loads of DEC and PEC. The joint dispatcher will have to consider various factors that might constrain the

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selection of power supply resources, such as contractual “must-run” obligations for certain resources. Within such parameters, however, the joint dispatcher will treat the resources of both utilities as available to serve the load of both DEC and PEC. To the extent that this results in one utility over-generating (i.e., producing more energy than its load) and the other utility under-generating, the imbalance will be handled through a dynamic schedule between the parties’ balancing authority areas. Tr. p. 136.

Witness Weintraub testified that each utility will bear the costs associated with its own power supply resources, as defined under the JDA. For example, DEC and PEC will incur the fuel and O&M costs associated with their own generating facilities. Similarly, each utility will be responsible for the costs it incurs under its own power purchase contracts. After the fact, it will be determined which utility (over-generating utility) provided energy to the other, how much it supplied to the other utility (under-generating utility) in a given hour, and the amount of the savings. The under-generating utility will compensate the over-generating utility at cost for all of its expenses for providing the energy. In order to prevent one utility from unfairly shifting costs to the other and to ensure a reasonable sharing of the savings generated by the joint dispatch, an after-the-fact process will be used to allocate costs and benefits between the utilities. Tr. pp. 136-137.

Under the after-the-fact allocation process for each hour, the joint dispatcher allocates energy to three types of transactions that occurred during the hour: 1) New Non-Native Load Sales; 2) Existing Non-Native Load Sales⁶; and 3) Native Load Sales. The energy allocation process is done in descending order of energy cost (other than energy from “must-run” units)

⁶ As explained more thoroughly below, the FERC in its June 8, 2012 order approving the JDA required the elimination of the distinction between New and Existing Non-Native Load sales.

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and identifies which power supply resources will be deemed to have served each class of transaction. Once the energy allocation process is complete, the joint dispatcher applies cost allocation provisions contained in the JDA to achieve a reasonable allocation of the costs and benefits of the joint dispatch. Tr. pp. 137-138.

The after-the-fact allocation process determines for each hour the costs each utility would have incurred if its resources had been dispatched on a stand-alone basis, without regard to any Non-Native Load sales opportunities. The difference between the joint dispatch costs and the stand-alone costs represents the cost savings achieved by joint dispatch. These savings then are allocated between PEC and DEC based on each company's share of energy generated in each hour. Tr. p. 139.

Under the joint dispatch process, the energy cost attributable to each utility's native load will be the costs actually incurred by the utility for energy allocated to native load service, adjusted by the cost allocation payments calculated by the joint dispatcher, which will be treated as payments for energy transfers between the utilities. Thus, the energy cost ultimately incurred by each utility to serve its native load will be equal to the stand-alone costs it would have incurred, but for the joint dispatch arrangement, less the utility's share of the joint dispatch savings. That will be the amount that each utility passes through its retail fuel clause and native load wholesale contracts. This process will result in an annual flow through of the joint dispatch savings for both retail and wholesale customers. Tr. p. 140.

The Applicants' witness, Dr. Kalt, explained that the joint dispatch of DEC's and PEC's generation resources under the JDA is expected to reduce the combined company's fuel and related dispatch costs by approximately \$364 million in the first five years after the Merger is

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completed (2012-2016). These savings come from the use of the combined system's lowest-cost available generation to meet total customer demand. Dr. Kalt testified that, in performing the joint dispatch savings study, he relied on a commonly used security-constrained dispatch production cost model to run optimized least-cost production for the utilities' individual BAAs on a stand-alone basis. He then ran the same model assuming a combined "joint dispatch" across the BAAs, holding constant assumptions about load, fuel prices, existing contracts, etc. A net reduction in the total production costs required to serve system loads represents the estimated savings attributable to the joint dispatch. Tr. pp. 172-173.

Dr. Kalt stated that the estimated cost savings of jointly dispatching the DEC and PEC generation fleets are driven largely by optimizing dispatch so as to minimize fuel costs. This optimization results in lower fuel costs because the joint dispatch creates a larger, more flexible pool of operating assets to be drawn upon when making overall generation dispatch decisions. Joint dispatch enhances the ability to commit and substitute available capacity at a less costly generating unit in one BAA for a more costly unit that otherwise would be required to meet load in another BAA absent the joint dispatch. Tr. pp. 172-173.

Dr. Kalt explained that the savings will vary in magnitude from period to period. Using base case assumptions, he estimated the savings per year to be:

Base Case Savings (\$mm)					
<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>Total</u>
\$38	\$49	\$64	\$97	\$116	\$364

Tr. p. 173.

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Dr. Kalt testified that the estimated benefits will vary if the underlying input assumptions used in the dispatch model are changed. To address this issue, he examined the effect on calculated benefits of changing two important modeling assumptions – fuel prices and load growth. By using a low and high range for both variables, he determined that the estimated benefits from joint dispatch range from \$249 million with low load growth (\$115 million less than the base case) to \$629 million with high fuel prices (\$265 million more than the base case). He noted that even the relatively smaller estimated potential benefits associated with an extreme low-load growth case still produce positive savings. Further, he considers the estimated joint dispatch cost savings to be a conservative estimate because the dispatch model does not capture additional sources of benefits associated with joint dispatch that offer real cost savings to the merging parties, as well as ancillary benefits such as enhanced economic activity. Specifically, he stated that the model does not (and cannot) capture the ability of joint dispatch to take advantage of daily fuel and electricity price volatility or potential benefits that can arise for capturing savings within a given hour, nor can the model capture the extent to which future joint planning could further reduce the costs of the merged companies. Finally, the ancillary benefits to the local economy resulting from lower electricity prices were not analyzed. Tr. pp. 174-175.

ORS witness, Jonathan Falk, agreed that the JDA should produce significant savings. However, he raised three issues: (1) that hourly joint dispatch ought to be feasible without a merger; (2) savings in the aggregate do not necessarily mean savings to each individual service territory; and (3) the JDA only allocates operating cost savings leaving open the possibility of cross-subsidization of capital costs on a going-forward basis. Witness Falk suggested that DEC and PEC could realize fuel savings through the implementation of some form of joint dispatch

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without a merger. He indicated that these savings could be realized by PEC and DEC forming a tight power pool which is nothing more than a JDA without any merging of ownership. However, DEC and PEC witness Dr. Kalt explained that DEC and PEC could not achieve the same level of savings as estimated under their JDA if they operated as unaffiliated participants in a tight power pool arrangement. This is because it is not possible for two unaffiliated parties to engage in the complex, day-to-day real time moment-to-moment decisions necessary to implement the operational integration required to realize such savings. Dr. Kalt also observed that tight power pools may result in increased expenses and may impact the jurisdictional authority of the Commission.

Regarding the issues of the allocation of savings and the possibility of cross-subsidization, witness Falk acknowledged that, until the system is up and running, it is virtually impossible to forecast the importance of these issues. In order to allow PEC, DEC, ORS, the Intervenor, and the Commission to evaluate the materiality of these concerns and measure the benefits of the JDA, he recommended the Commission approve the JDA on a one year trial basis. Tr. pp. 238-241. During cross-examination by Mr. Tiencken, witness Falk testified that the Central Electric Power Cooperative and the Electric Cooperatives of South Carolina, Inc., support a one year trial period. Tr. p. 258.

In addition to the savings to be realized from joint dispatch, PEC and DEC witness Weintraub testified that the significant coordination between PEC and DEC will also create savings through the joint purchase of fuel and fuel transportation and the sharing and implementation of best practices for fuel procurement and use. Witness Weintraub sponsored Exhibit No. 5 to the Application, which is a study performed by Booz & Company (“Booz”) for

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the Applicants, that estimates merger savings for the fuel procurement activities of the combined company. Witness Weintraub explained that Booz utilized specific information from DEC and PEC and Booz's own experiences with previous utility mergers to determine the forecasted fuel savings following the Merger. Tr. p. 140.

Witness Weintraub testified that both companies need natural gas, coal, and the transportation services required to deliver these fuels. With regard to coal transportation, witness Weintraub explained that, by aligning various transportation contracts and taking advantage of opportunities to maximize the economies of scale for the transportation of the combined company's coal requirements, the combined company will reduce its coal transportation costs. The transportation savings opportunity for the new company is based on aligning the lowest rates across common transportation contracts and carriers. Tr. p. 141.

Turning to the procurement of coal, witness Weintraub testified that the annual coal burn of the combined company will range from 23 to 28 million tons over the next five years. By optimizing a combined fuel sourcing plan with greater scope across common coal suppliers, the combined company will reduce overall coal procurement costs. The combined company's purchasing requirements will enhance its position as a leading buyer of coal and provide increased purchasing power in the marketplace, which will benefit customers through lower costs. Tr. p. 141.

With regard to the transportation of natural gas, witness Weintraub stated that, with the addition of interstate natural gas pipeline agreements by both DEC and PEC to support new and existing natural gas generation in the Carolinas, the combined company will utilize common natural gas transportation paths and complementary logistics for the combined natural gas

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generation fleet. By maximizing the utilization of the combined portfolio of interstate natural gas pipeline agreements, cost savings will be achieved through short-term and potential long-term capacity releases into the market. In addition, fuel savings will be achieved by the avoidance of additional fixed pipeline costs by utilizing non-firm interstate pipeline transactions (backhaul and pipeline segmentation) to serve the natural gas requirements of the combined company. Tr. p. 143.

Witness Weintraub explained that the combined company should be able to achieve substantial fuel savings by the sharing of best practices for coal blending at the combined company's coal power plants. Over the past five years, PEC has invested more than \$60 million in its scrubbed coal units to improve the fuel flexibility of these units. These investments have included improvements to the coal-fired boilers, as well as the balance-of-plant components that have expanded the types of coal that can be reliably burned at these PEC coal units. The expansion of coal types that can be burned at the PEC scrubbed units has created competition among different coal basins, resulting in overall lower fuel procurement costs. Some of the investments have been for coal blending infrastructure that has increased blending capabilities to achieve optimal quality blends and procurement economics as well as the blending of cheaper fuels during off-peak hours. The integration of these best practices within the combined company will reduce the fuel costs of the combined company. Tr. pp. 141-142.

Turning to other savings opportunities, witness Weintraub testified that both DEC and PEC utilize common suppliers and transportation providers for limestone. By leveraging the increased limestone volume for the combined company, DEC and PEC expect to lower the delivered reagent costs of the combined company by reducing both the commodity costs and the

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transportation costs for limestone. In addition to limestone costs, the combined company will have reagent costs for the procurement of ammonia. The combined company intends to leverage its increased purchasing power by consolidating its ammonia volume to achieve more competitive commodity pricing and transportation pricing than could be achieved by stand-alone companies. Tr. pp. 142-143.

Another area of savings noted by witness Weintraub involves combining the natural gas trading and scheduling functions for DEC and PEC. The combined company will eliminate the need for DEC to establish a natural gas trading desk and allow it to avoid two related positions that had been anticipated for meeting the needs of DEC's gas-fired generation fleet. Tr. pp. 143-144.

The Application explains that the Booz fuel savings study (Exhibit No. 5) quantifies these various savings opportunities as follows:

- the leveraging of each entity's expertise in coal transportation services and coal procurement is estimated to result in a combined savings of \$115 million over the five-year period 2012-2016;
- savings of \$183.9 million over this same five-year period are expected to be created through the application of coal blending practices to DEC's coal use, similar to PEC's current practices; and
- coordinating the use of PEC's and DEC's interstate natural gas pipeline capacity to the greatest extent allowed, reagent procurement efficiencies, and elimination of the need for DEC to establish a natural gas trading

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desk, are estimated to produce an additional \$31.8 million of fuel savings,
for a total of \$330.7 million over five years.

Combined with the joint dispatch fuel savings results, gross total fuel savings are estimated to be \$694.7 million over five years.

Witness Weintraub stated that the joint dispatch and fuel cost savings will automatically flow through to the utilities' retail customers through their respective fuel clause proceedings. He also explained that, upon the closing of the Merger, both PEC and DEC will file rate decrements to pass through the forecasted fuel savings for 2012. Tr. pp. 133, 140. The rider will be designed to provide PEC's and DEC's retail customers the forecasted savings to be realized from the joint dispatch of their systems as well as other fuel cost savings during calendar year 2012. In each of DEC's and PEC's fuel cost proceedings in the five years after Merger close, they will incorporate the forecasted savings from the joint dispatch of their systems as well as other fuel costs savings for each of those years into the calculation of their respective fuel factors. They will also calculate a true-up of the forecasted amounts for the previous year to the actually experienced savings.

At the hearing, PEC and DEC guaranteed that their retail and wholesale customers would receive their allocable shares of \$650 million in total system fuel and fuel-related cost savings over five years. At the close of the fifth year, if actually achieved savings passed through to retail customers in DEC's and PEC's South Carolina fuel cases do not total each company's allocable portion of South Carolina's pro rata share of the \$650 million in guaranteed savings, then DEC and PEC will flow through their respective fuel riders in their next cases their allocable shares of the remaining obligation. In the event the actual savings

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exceed the guarantee, those additional savings will also be flowed through to DEC's and PEC's customers.

In the Additional Direct Testimony of witness Weintraub filed on June 4, 2012, pursuant to the Commission's Order No. 2012-473, Mr. Weintraub addressed the salient elements of a Supplemental Agreement and Stipulation of Settlement (Supplemental Agreement) entered into by DEC, PEC, and the NCUC Public Staff on May 8, 2012. This Supplemental Agreement clarifies and modifies an earlier Agreement and Stipulation of Settlement entered into by DEC, PEC and the NCUC Public Staff on September 2, 2011. The Supplemental Agreement clarifies certain portions of the JDA, creates additional savings for DEC's and PEC's customers, and addresses certain aspects of the \$650 million fuel savings guarantee during the first five years following the Merger.

The first clarification concerns how off-system purchases and sales are to be treated in determining savings realized by PEC and DEC from the joint dispatch of their generation facilities. The parties agreed that, in order to properly account for the benefits of joint dispatch for purposes of calculating the JDA savings portion of the \$650 million fuel savings guarantee, off-system sales and purchases will be excluded from the calculation (in both the joint dispatch generation stack and the stand-alone generation stacks). Actual savings that result from purchases and the displacement of higher cost generation that results from such purchases will flow through DEC's and PEC's annual fuel charge adjustment proceedings in the same manner such lower costs/savings have been treated pre-merger.

The second clarification concerns the increased consumption of reagents by DEC resulting from its burning of non-traditional coals due to greater use of coal blending. Fuel

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blending generally refers to the exercise of fuel flexibility in electricity generation and involves the burning of coals with higher sulfur and ash contents. Such blending will result in the consumption of greater amounts of reagents than would be the case if the higher sulfur and ash content coals were not burned. The Supplemental Agreement clarifies that the calculation of the \$650 million fuel savings guarantee will not be reduced by the increased reagent costs resulting from the increased consumption of reagents associated with fuel blending. The recovery of these increased reagent costs, if otherwise reasonable and prudently incurred, will be allowed in DEC's annual fuel charge proceedings.

The final clarification relates to how savings realized by DEC from greater use of coal blending following the Merger are to be calculated for purposes of the \$650 million fuel savings guarantee.

Mr. Weintraub further explained that the Supplemental Agreement modifies DEC's and PEC's earlier agreement with the NCUC Public Staff that DEC's and PEC's North Carolina retail customers would receive their allocable share of \$650 million of total system fuel and fuel-related cost savings over the first five years following the close of the Merger. He stated that the reduction in natural gas prices since the beginning of 2012 has significantly impacted PEC's and DEC's opportunity to achieve fuel savings from coal blending. Exhibit No. 5 to the Applicants' Merger Application indicates that savings of \$183.9 million during the first five years following the close of the Merger are expected to be achieved through coal blending. Mr. Weintraub testified that the dramatic reduction in natural gas prices since the beginning of 2012 has materially reduced the amount of coal being consumed by PEC and DEC. Current forecasts of natural gas prices do not indicate any material change in the relative prices of coal and

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natural gas in the near term. Therefore, over the next several years, PEC's and DEC's coal consumption is expected to remain at the current relatively low levels. This reduced use of coal materially impacts DEC's forecasted ability to achieve the \$183.9 million in coal blending savings during the first five years after the Merger. As a result, the NCUC Public Staff and the Applicants agreed that, if at the end of the five-year period, (1) DEC and PEC have not achieved all of the \$650 million in guaranteed savings in spite of their best efforts; and (2) the decline in natural gas prices has resulted in fewer tons of coal having been delivered to the three DEC generating plants designated for coal blending in Exhibit 5 and therefore impaired DEC's ability to achieve the forecasted coal blending savings, then the five-year period will be extended by 18 months.

Mr. Weintraub emphasized in his testimony that PEC and DEC are still committed to providing both their South Carolina and North Carolina retail customers their allocable shares of the guaranteed \$650 million in fuel savings during the first five years following the closing of the Merger. However, he explained that, at the time of the hearing before this Commission in December of 2011, no one foresaw the dramatic decrease in natural gas prices that has occurred in 2012 or that natural gas prices would be forecasted to remain at very low levels for the next several years. This reduction in natural gas prices has resulted in natural gas fired generation being less expensive than coal fired generation. If this situation persists, then following the Merger DEC will not be burning enough coal at its Marshall, Belews Creek, and Allen plants to achieve the forecasted savings of approximately \$184 million. Thus, Mr. Weintraub testified that DEC and PEC need an additional 18 months to achieve the \$650 million in fuel savings if DEC is unable to burn as much coal as was originally forecasted. He emphasized that DEC's

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and PEC's South Carolina customers are realizing and will realize fuel savings, the savings will just be created by the changes in the fuel markets rather than from coal blending. Either way DEC's and PEC's customers enjoy significant savings, they will just be achieved in a manner not originally contemplated. Of course, such natural gas fired generation savings will not be counted toward the achievement of the \$650 million guarantee in fuel savings.

Another modification addressed by Mr. Weintraub in his Additional Direct Testimony relates to the recovery of capital costs associated with achieving merger savings. In recognition of the delay in the expected closing of the Merger from January 1, 2012, to the June-July 2012 time frame, the Applicants and the NCUC Public Staff agreed that their September 2, 2011, Agreement and Stipulation of Settlement should be revised to allow PEC and DEC to seek recovery of any and all capital costs incurred to generate merger savings provided such costs are incurred within three years of the closing of the Merger, except for capital costs to achieve fuel blending savings incurred by DEC. The Supplemental Agreement provides that there should not be any time limitation regarding DEC seeking recovery of costs to achieve coal blending savings. Additionally, the standard for recovery was changed to allow PEC and DEC to recover all capital costs incurred to generate merger savings (including fuel blending savings) in accordance with normal ratemaking practices.

Mr. Weintraub explained that, in consideration for the NCUC Public Staff agreeing to these clarifications and modifications in the Supplemental Agreement and Stipulation of Settlement, PEC and DEC agreed to waive their right to seek recovery of employee severance costs. These costs are forecasted to be \$226,000,000 on a system basis. Mr. Weintraub stated that the ORS, which is a party to the North Carolina proceeding, has filed a letter with the

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NCUC generally supporting the Supplemental Agreement and Stipulation of Settlement, including the 18-month extension.

Mr. Weintraub also addressed certain commitments DEC and PEC made to the ORS in settlement of the ORS' issues in the North Carolina Merger proceeding. Mr. Weintraub states that these commitments create additional value for DEC's and PEC's South Carolina customers that more than offset the 18-month extension to achieve the guaranteed \$650 million in fuel savings. He noted that DEC and PEC have agreed to make annual community support and charitable contributions in South Carolina for four years following the close of the Merger. The annual contributions will be based on DEC's and PEC's average contributions over the time period 2006-2010. The annual amount for DEC is \$1,866,862, and for PEC the annual amount is \$788,000 for an annual total of \$2,654,862. In addition, DEC and PEC have committed to make a contribution in the amount of \$3.75 million in the first year following the close of the Merger to support workforce development and low income energy assistance in DEC's and PEC's South Carolina service territories. The contribution will be allocated in proportion to the number of South Carolina customers served by each utility. Finally, Mr. Weintraub stated that DEC and PEC have committed not to seek recovery of the employee severance costs they will incur in reducing their workforces to achieve merger savings from their South Carolina retail customers. These costs are forecasted to be \$44,000,000 on a South Carolina retail basis.

The Commission finds that the changed circumstances described by Mr. Weintraub, along with the additional value resulting from the commitments made by DEC and PEC to the ORS, justify the Commission allowing DEC and PEC an additional 18 months beyond the first

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five years following the close of the Merger to provide their South Carolina retail customers their allocable share of the guaranteed \$650 million in fuel savings.

As noted earlier, on June 8, 2012, FERC approved the JDA, provided that DEC and PEC agreed to two revisions. The required revisions were the deletion of Sections 3.2(c)(ii)-(iv) and the elimination of the distinction between existing non-native load customers and new non-native load customers. On June 12, 2012, DEC and PEC notified the Commission that they would agree to these revisions and submitted a revised conforming JDA. DEC and PEC also indicated that they intended to submit the revised JDA to FERC no later than 10 days after the close of the Merger. On June 13, 2012, DEC and PEC filed the Further Supplemental Testimony of Sasha Weintraub explaining the JDA revisions.

In that testimony, Mr. Weintraub explained that none of the revisions alter DEC's and PEC's ability to achieve the forecasted fuel savings or otherwise impair any of the benefits of the JDA to South Carolina customers. He stated that Sections 3.2(c)(ii)-(iv) of the JDA contain language that DEC and PEC were required to insert into affiliate agreements pursuant to their North Carolina regulatory conditions. The language of Sections 3.2(c)(ii)-(iv) is substantially similar to language in those regulatory conditions. Therefore, the deletion of this language from the JDA does not relieve DEC and PEC from these obligations. In fact, Mr. Weintraub noted that FERC stated in the paragraph discussing the deletion of Sections 3.2(c)(ii)-(iv) that "we offer no view on the North Carolina Commission's authority to impose or apply such requirements in its proceedings." (FERC JDA Order page 13, paragraph 37). In addition, Mr. Weintraub testified that on June 13, 2012, the NCUC Public Staff filed proposed additional

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regulatory conditions in the NCUC merger docket to address the deletion of this language from the JDA. DEC and PEC do not oppose these revisions.

Turning to FERC's second revision, Mr. Weintraub explained that FERC required DEC and PEC to eliminate the distinction in the JDA between sales to existing non-native load customers and sales to new non-native load customers. He further explained that merging existing non-native load sales and new non-native load sales into one class for purposes of the JDA has no impact on the \$650 million savings guarantee, because this revision only deals with non-native load transactions and does not impact native load. Furthermore, he stated that the class of existing non-native load sales is small, only two contracts, and that, when those two contracts expire, the class of "existing non-native load sales" will disappear.

Finally, Mr. Weintraub testified that merging these two types of sales does not change the total costs allocated to non-native load sales for purposes of the JDA. The resources allocated to native load will only be those that remain after the highest cost resources have been allocated to non-native load sales. The only difference will be that, instead of first allocating the least expensive of these higher cost resources to "existing" non-native load sales and the remainder to "new" non-native load sales, the most expensive resources will be allocated to non-native load sales as a whole. Therefore, this change will not affect the allocation of costs to native load.

D. OTHER ISSUES

The City of Orangeburg opposed approval of the JDA, not on the grounds that it will not provide substantial savings to PEC's and DEC's South Carolina customers, but rather because, Orangeburg argues, the Commission does not have jurisdiction to approve the JDA.

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As explained earlier in this order, the JDA involves the transfer of operational control of PEC's generating assets to DEC. These PEC generating assets are used and useful and are included in PEC's rate base. Thus, pursuant to S.C. Code Ann. § 58-27-1300, which is set forth in its entirety below, Commission approval is clearly required prior to their transfer to DEC.

S.C. Code Ann. § 58-27-1300 (Supp. 2011) states:

No electrical utility, without the approval of the commission and compliance with all other existing requirements of the laws of the State in relation thereto, may sell, assign, transfer, lease, consolidate, or merge its utility property, powers, franchises, or privileges, or any of them,without prior approval of the commission..... For purposes of this section, "utility property" shall include property used and useful to provide customers with electric service and which has been properly included in the electric utility's rate base, including construction work in progress or property held to serve future customers.

Furthermore, elimination of certain language in the JDA that the City finds offensive will not provide Orangeburg the relief it seeks. The Applicants' witnesses Rogers and Johnson explained in their rebuttal testimony that Orangeburg's basic concern with the JDA relates to a decision by the NCUC regarding the allocation of electric utility costs between retail and wholesale customers for the purposes of establishing North Carolina retail electric rates. Orangeburg believes the North Carolina cost allocation methodology harms Orangeburg's opportunities to purchase electricity in the wholesale market at favorable rates, thus it opposes this cost allocation methodology. The proposed JDA is consistent with the existing North Carolina retail/wholesale cost allocation methodology. Orangeburg has challenged this cost allocation process before the NCUC and the North Carolina courts and was unsuccessful in both forums. A rejection of the JDA by this Commission will not alter these decisions or the NCUC's use of this cost allocation methodology. Tr. p. 35.

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III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

After thorough consideration of the entire record, including the testimony and all exhibits, and the applicable law, the Commission makes the following findings of fact and conclusions of law:

1. DEC is an electrical utility as defined by S.C. Code Ann. § 58-27-10(7) authorized to generate, transmit and distribute electric power in its service territory in South Carolina.
2. PEC is an electrical utility as defined by S.C. Code Ann. § 58-27-10(7) authorized to generate, transmit and distribute electric power in its service territory in South Carolina.
3. Pursuant to S.C. Code Ann. § 58-27-140 (Supp. 2011), the Commission is vested with general powers to supervise and regulate the service of electrical utilities and pursuant to S.C. Code Ann. § 58-27-1300, the Commission must approve the transfer of any utility property, including the transfer of operational control of PEC's generating assets as contemplated by the JDA.
4. We find that the JDA is an interchange or interconnection agreement as contemplated by S.C. Code Ann. § 58-27-865(E) and is not intended to act as a system integration agreement and that DEC and PEC will retain their obligations to serve their own native load customers, to fulfill their own contractual obligations, and to operate their own transmission systems and balancing authority areas. Further, all rates and services of PEC and DEC continue to be subject to the same oversight of this Commission as was the case before the merger of Duke and Progress.

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5. We find that the joint dispatch process will allow PEC and DEC to serve their retail and wholesale native load customers more efficiently and economically than they can on a stand-alone basis.

6. We conclude that the savings to be realized by PEC and DEC from the JDA are real and substantial. No party to this proceeding presented any evidence that the JDA will not produce substantial savings for PEC's and DEC's South Carolina customers. The Commission finds that the revisions required by FERC do not diminish the benefits of the JDA to DEC's and PEC's South Carolina retail customers.

7. This Commission is mindful of the evolving nature of DEC's and PEC's planning for use of existing and future generation resources. Until the two companies are able to construct IRPs that benefit from full knowledge of the other company's needs and resources, it is uncertain how their combined future decision-making will impact their ratepayers. In addition, because of the sheer size of their operations, it is also uncertain how ripple effects might impact other utilities, other South Carolina ratepayers, and our state's economy.

8. To address any issues or risks associated with the JDA and the evolving nature of the Applicants' planning, we find that the JDA should be approved on a one (1) year trial basis effective with the closing of the Merger. The one (1) year trial basis has been recommended by ORS, supported by the Electric Cooperatives and Nucor, and agreed to by the Applicants.

9. We find that the Commission does have jurisdiction to approve the JDA pursuant to S.C. Code Ann. § 58-27-1300 (Supp. 2011).

10. During the hearing the Applicants committed to a "most favored nations" treatment for South Carolina. This commitment ensures that PEC's and DEC's South Carolina

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customers receive the same benefits, on a pro rata basis, as those provided to PEC's and DEC's North Carolina retail customers as a result of the NCUC's Order ruling upon Duke's and Progress' Merger Application, including the adoption of the revised Regulatory Conditions and Code of Conduct to the extent allowable by South Carolina law.

11. DEC and PEC have guaranteed that DEC's and PEC's South Carolina retail customers will receive their allocable share of \$650 million of total system fuel and fuel-related cost savings over five years upon close of the Merger. DEC and PEC shall have 18 additional months to achieve the \$650 million in system fuel and fuel-related cost savings if, at the end of the five-year period, (1) DEC and PEC have not achieved all of the \$650 million in guaranteed savings in spite of their best efforts; and (2) the decline in natural gas prices has resulted in fewer tons of coal having been delivered to the three DEC generating plants designated for coal blending in Exhibit 5. At the end of that period, if the savings passed through to retail customers in DEC's and PEC's South Carolina fuel cases do not total each company's allocable portion of South Carolina's pro rata share of the \$650 million in guaranteed savings, then in DEC's and PEC's subsequent fuel cases each will flow through their respective fuel riders their allocable share of the remaining obligation. In the event the actual savings exceed the guarantee, those additional savings will also be flowed through to DEC's and PEC's customers.

12. DEC and PEC have also made the following commitments to the ORS as a condition of approval of the JDA: DEC and PEC shall make annual community support and charitable contributions in South Carolina for four years following the close of the Merger. The annual contributions will be based on the DEC's and PEC's average contributions over the time period 2006-2010. The annual amount for DEC is \$1,866,862, and for PEC the annual amount

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is \$788,000 for an annual total of \$2,654,862. DEC and PEC shall make a contribution in the amount of \$3.75 million in the first year following the close of the Merger to support workforce development and low income energy assistance in DEC's and PEC's South Carolina service territories. The contribution will be allocated in proportion to the number of South Carolina customers served by each utility. DEC and PEC shall not seek recovery of the employee severance costs they will incur in reducing their workforces to achieve merger savings. These costs are forecasted to be \$226,000,000 on a system basis and \$44,000,000 on a South Carolina retail basis.

IT IS THEREFORE ORDERED THAT:

1. The Joint Dispatch Agreement, as approved by FERC, is approved by this Commission on a one year trial basis effective with the closing of the Merger, and all commitments made by the Applicants as referenced herein are accepted as a condition of such approval;
2. As a condition of this Commission's approval of the Joint Dispatch Agreement, PEC and DEC guarantee this Commission and PEC's and DEC's retail customers pro rata benefits equivalent to those approved by the NCUC in its Order ruling upon Duke Energy Corporation's and Progress Energy, Inc.'s Merger Application, including, but not limited to the protections of the revised Regulatory Conditions and Code of Conduct, to the extent allowable by South Carolina law;
3. As a condition of this Commission's approval of the Joint Dispatch Agreement, PEC and DEC guarantee this Commission and their retail and wholesale customers that customers will receive their allocable share of \$650 million in total system fuel and fuel-related

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cost savings over the first five years after close of the Merger. DEC and PEC, however, shall have 18 additional months to achieve and pass through South Carolina customers' allocable share of the \$650 million in system fuel and fuel-related cost savings if, at the end of the five-year period, (1) DEC and PEC have not achieved all of the \$650 million in guaranteed savings in spite of their best efforts; and (2) the decline in natural gas prices has resulted in fewer tons of coal having been delivered to the three DEC generating plants designated for coal blending in Exhibit 5. At the end of that period, if the savings passed through to retail customers in DEC's and PEC's South Carolina fuel cases do not total each company's allocable portion of South Carolina's pro rata share of the \$650 million in guaranteed savings, then in DEC's and PEC's subsequent fuel cases each will flow through their respective fuel riders their allocated share of the remaining obligation. In the event the actual savings exceed the guarantee, those additional savings will also be flowed through to DEC's and PEC's customers.

4. As a condition of our approval of the Joint Dispatch Agreement DEC and PEC shall: a) make annual community support and charitable contributions in South Carolina for four years following the close of the Merger. The annual contributions will be based on the DEC's and PEC's average contributions over the time period 2006-2010. The annual amount for DEC is \$1,866,862, and for PEC the annual amount is \$788,000 for an annual total of \$2,654,862; b) make a contribution in the amount of \$3.75 million in the first year following the close of the Merger to support workforce development and low income energy assistance in DEC's and PEC's South Carolina service territories. The contribution will be allocated in proportion to the number of South Carolina customers served by each utility; and c) DEC and PEC shall not seek recovery of the employee severance costs they will incur in reducing their

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workforces to achieve merger savings. These costs are forecasted to be \$226,000,000 on a system basis and \$44,000,000 on a South Carolina retail basis.

5. DEC and PEC shall file electronically with the Commission decrement riders to their South Carolina retail rates within 30 days of the close of the Merger to pass through to their respective customers: a) their allocable shares of the \$650 million in system fuel and fuel-related cost savings; and b) the capacity cost allocated to the interim wholesale sales consistent with Appendices A and B to this Order.

6. In addition to the reports currently received by this Commission, DEC and PEC shall file with this Commission all reports required by the NCUC's Order on the Merger issued on June 29, 2012 (or which may be required by the NCUC in the future) as are relevant and appropriate under South Carolina law, *e.g.*, the reports listed in Appendix C to this Order. Further, copies of such reports should be provided to the ORS, as well as any other reports which may be requested by the ORS. This Commission retains jurisdiction to determine the appropriateness of the list of reports to be submitted to the Commission.

7. DEC and PEC shall provide within 30 days of receipt of this Order the final versions of the Revised Code of Conduct, Regulatory Conditions, and the final version of the Joint Dispatch Agreement and final version of the Mitigation Plan filed with FERC.

8. The Settlement Agreement between DEC and PEC and the Environmental Intervenor is approved.

9. By May 2, 2013, interested Parties in the present docket shall submit proposed procedures, including due dates for filings, for the one year review of the JDA, to be opened

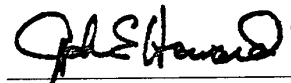
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under a new docket. Those Parties shall include procedures for reporting on the promised fuel and fuel-related cost savings.

10. By July 2, 2013, DEC and PEC shall certify compliance with the commitments regarding workforce development, low income energy assistance, annual community support and charitable contributions.

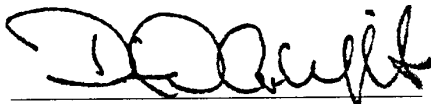
11. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



John E. Howard, Chairman

ATTEST:



David A. Wright, Vice Chairman
(SEAL)

Appendix A
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Page 1 of 1



December 13, 2011

The Honorable Jocelyn G. Boyd
Chief Clerk / Administrator
Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, SC 29210

RE: SCPSC Docket No. 2011-158-E

Dear Mrs. Boyd:

The purpose of this letter is to memorialize the stipulation and commitment made by Progress Energy Carolinas, Inc. ("PEC") and Duke Energy Carolinas, LLC ("DEC") during the hearing in this docket held December 12, 2011.

As a condition for Commission approval of the proposed Joint Dispatch Agreement ("JDA") between PEC and DEC, PEC and DEC will provide the Commission a "most favored nations" commitment and will also agree to the ORS proposal for approval of the Joint Dispatch Agreement on a one year trial basis. The "most favored nations" commitment guarantees this Commission and PEC's and DEC's retail customers pro rata benefits equivalent to those approved by the North Carolina Utilities Commission in its order ruling upon Duke Energy Corporation's and Progress Energy Carolinas, Inc.'s merger application.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Len S. Anthony', written over a horizontal line.

Len S. Anthony
General Counsel
Progress Energy Carolinas, Inc.

LSA:mhm

STAREG2070

Progress Energy Service Company, LLC
P.O. Box 1351
Raleigh, NC 27602

Appendix B
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May 16, 2012

VIA ELECTRONIC FILING

Jocelyn G. Boyd, Esquire
Chief Clerk & Administrator
Public Service Commission of South Carolina
101 Executive Center Drive, Suite 100
Columbia, South Carolina 29210

RE: Application Regarding the Acquisition of Progress Energy Incorporated by Duke Energy Corporation and Merger of Progress Energy Carolinas, Incorporated and Duke Energy Carolinas, LLC - **Docket No. 2011-158-E** (See also Docket No. 2011-68-E)

Dear Mrs. Boyd:

The purpose of this letter is to advise the Public Service Commission of South Carolina (the "Commission") of certain commitments Duke Energy Carolinas, LLC ("DEC") and Progress Energy Carolinas, Inc. ("PEC"), (collectively referred to in this letter as "the Utilities"), have made to the South Carolina Office of Regulatory Staff ("ORS") with regard to the Revised Market Power Mitigation Proposal ("Revised Mitigation Proposal") filed with the Federal Energy Regulatory Commission ("FERC") by Progress Energy, Inc. ("Progress") and Duke Energy Corporation ("Duke") on March 26, 2012. The Revised Market Power Mitigation Proposal was filed by Duke and Progress pursuant to an order issued by the FERC on December 14, 2011, which rejected a previous mitigation proposal filed by Duke and Progress.

The Revised Mitigation Proposal has two elements: 1) an interim mitigation mechanism that involves the sale of capacity ("Mitigation Capacity") and energy to new third-party wholesale market participants ("Interim Mitigation Sales"); and 2) a permanent mitigation proposal that involves the construction of new transmission facilities and a commitment to run certain generating units in a specified manner ("Permanent Transmission Mitigation"). As proposed, the Interim Mitigation Sales will terminate once all of the new proposed transmission facilities have been constructed and placed into service. These two (2) market power mitigation mechanisms create state retail cost recovery issues. To address these issues the Utilities have made the following commitments to the ORS to hold their South Carolina retail ratepayers harmless:

Progress Energy Service Company, LLC
P.O. Box 1551
Raleigh, NC 27602

Jocelyn G. Boyd, Esquire

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May 16, 2012

A. Interim Mitigation Sales

1. The costs of the Mitigation Capacity will be allocated to the Utilities' wholesale jurisdiction. These costs shall be calculated based upon the revenue requirement associated with a utility-specific proxy for the capacity costs of the generating facilities expected to be on the margin during the months and hours the Interim Mitigation Sales will be made, which are assumed to be between July 1, 2012 through May 31, 2015.
2. DEC and PEC will each develop a decrement rider to their respective South Carolina retail rates that reflects the Mitigation Capacity costs described in subsection (1) above, calculated as follows:
 - a) The Mitigation Capacity MWs under contract for each period shall be increased to reflect reserve margins contained in the Utilities' 2011 filed Integrated Resource Plans.
 - b) The Mitigation Capacity MWs, including the associated reserve margins, shall be multiplied by the number of hours that the capacity is contracted for and the hourly capacity cost per MW based upon the agreed upon utility-specific proxy.
 - c) These capacity costs shall include a rate of return on production plant, step-up transformer facilities, general plant, and associated rate base items. Additional costs to be included are fixed O&M (which include an appropriate allocation of Administrative and General ("A&G") costs, depreciation expense, and general taxes. The total system costs of Mitigation Capacity to be allocated away from retail are \$43,458,315 for DEC and \$21,194,759¹ for PEC.
 - d) Such capacity costs shall be allocated between and among jurisdictions using the production plant allocation methodology approved in DEC's and PEC's most recent general rate cases. For DEC and PEC, the current Commission-approved methodology is Summer CP. Use of these particular allocation methodologies shall not be considered as precedent in any future cases, including general rate cases.
 - e) The decrement shall be determined by dividing each utility's Mitigation Capacity total projected South Carolina retail capacity costs for July 1, 2012, through May 31, 2015, by each utility's projected South Carolina retail kilowatt-hour sales for the same period in accordance with Appendix A.

¹ The DEC and PEC South Carolina retail allocable portion would be \$10,316,657 for DEC and \$2,283,121 for PEC.

Jocelyn G. Boyd, Esquire

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May 16, 2012

3. The Utilities shall file such decrement riders for approval with the Commission and provide a copy to ORS within 30 days after the Merger closes. Upon approval by the Commission, the decrement riders shall be fixed and remain in effect and without any future true-ups until the date the Interim Mitigation Sales are terminated plus the number of days between when such sales began and the time the decrement riders became effective. Provided, however, that if a portion of the interim sales terminate, the riders shall be reduced in proportion to the terminated sales. Appropriate decrement riders will continue in effect until such time as the Utilities are relieved of their respective obligations to make the Interim Mitigation Sales.
4. Interim Mitigation Sales shall be treated as a separate category of New Non-Native Load Sales and shall be deemed to have been satisfied by the highest energy costs assigned to New Non-Native Load Sales.
5. The Utilities shall not seek to recover from their South Carolina retail customers any of the non-fuel variable operating and maintenance costs associated with the Interim Mitigation Sales.
6. The Utilities shall not seek to recover from their South Carolina retail customers any revenue shortfalls resulting from, or any costs associated with, the Interim Mitigation Sales, including but not limited to any negative capacity payments, any revenue deficiency resulting from energy revenues being less than the associated costs and any payment of liquidated damages.

B. Permanent Transmission Mitigation

DEC and PEC will not assign costs associated with Permanent Transmission Mitigation projects into their wholesale transmission rates until the later of the expiration of the five-year FERC hold harmless period or such time as the Utilities have received regulatory approval to assign those costs to their retail native loads, effective on the date they are first permitted to begin recovering those costs.

1. The Utilities shall not seek recovery in their respective South Carolina retail rates of any of the costs associated with the Permanent Transmission Mitigation projects except as follows:
 - a) The Utilities may request recovery of costs associated with a Permanent Transmission Mitigation project in their respective South Carolina retail rates upon the expiration of five (5) years following the close of the merger, and any such request shall include a showing that the requesting utility also intends to pursue recovery from its wholesale customers effective on the date it is permitted to begin recovery of such costs in its South Carolina retail rates.

Jocelyn G. Boyd, Esquire

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May 16, 2012

- b) Any request by DEC or PEC to recover the costs associated with a Permanent Transmission Mitigation project in its South Carolina retail rates must be supported by evidence sufficient to show that, absent the merger and the resulting mitigation requirement, (i) the project is needed to provide adequate and reliable retail service, and (ii) at the time the request is made, the construction of the project and the incurrence of the associated costs would have been reasonable and prudent.
 - c) If the requisite showing has been made pursuant to (a) and (b) above, the Utilities may seek inclusion of only the net depreciated cost of the Permanent Transmission Mitigation projects at the time of the request, and shall not request any deferral of any costs associated with the projects for ratemaking purposes.
 - d) If subsequent to the inclusion of the costs associated with a Permanent Transmission Mitigation project in South Carolina retail rates, DEC or PEC is not successful in incorporating the correct jurisdictional share of those costs into the cost-based formula rate prescribed by its FERC approved Open Access Transmission Tariffs and, therefore, does not recover all of such costs from its wholesale or firm transmission-only customers, then the corresponding proportionate share of such costs that have been approved for inclusion in retail rates shall be removed and refunds made accordingly (e.g., if 20% of the costs allocated to wholesale are not recovered, then 20% of the portion allocated to retail shall be excluded and refunded).
2. Paragraph B.1 above does not apply to the Greenville-Kinston-DuPont transmission line project. PEC may seek to include the costs associated with this line in its South Carolina retail rates any time after the line is placed in service, in accordance with normal ratemaking practice requirements.
 3. The Utilities shall not recover from their South Carolina retail ratepayers any costs associated with running their generating systems on a non-economic basis as a result of the FERC Permanent Transmission Mitigation commitment to run the Roxboro and Mayo units at full output when necessary to push back against AEP/PJM power flows into PEC in order to achieve improvement in firm import capability from PJM into PEC-East. PEC, through special operating procedures² maintained at its Energy Control Center ("ECC"), shall (a) document each instance in which any of the Roxboro and Mayo units operate out of merit dispatch order and (b) specify each instance during which the approved procedure for implementing the Permanent Transmission

² The ECC will monitor the AEP Danville/East Danville transmission line that interconnects with PEC's system north of the Roxboro and Mayo plants, and, if line-overloading issues associated with power flows from PJM into PEC are found at a time that the Roxboro and Mayo units are not operating at full power output, the ECC will direct both the Roxboro and Mayo plants to increase their output to full power, per the special operating procedures for this type of situation.

Jocelyn G. Boyd, Esquire

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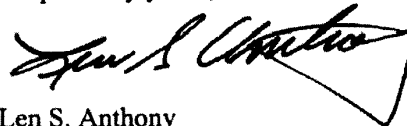
May 16, 2012

Mitigation commitment was used. For each use of the procedure, the following information shall be included by PEC in its monthly fuel report:

- the date, exact times, and duration;
 - a detailed description of the order of dispatch under the joint dispatch agreement that would have occurred if the procedure had not been used;
 - the incremental difference in fuel, fuel-related, and variable O&M costs, on a joint dispatch basis; and
 - the effect on joint dispatch savings to be split between DEC and PEC.
- C. DEC and PEC re-affirm their commitment and guarantee contained in the Utilities' December 13, 2011 letter filed with the Commission in this same docket to provide their retail South Carolina customers pro rata benefits equivalent to those approved by the North Carolina Utilities Commission in its order ruling upon Duke's and Progress' merger application.
- D. The commitments described in this letter are contingent upon the FERC approving the Revised Mitigation Proposal in Docket No. EC11-60-004; the Joint Dispatch Agreement between DEC and PEC, re-filed with the FERC on March 26, 2012, in Docket Nos. ER12-1338-000, ER12-1347-000, and ER11-3306-000; and the Joint Open Access Transmission Tariff, as re-filed in Docket Nos. ER12-1343-000, ER12-1345-000, ER12-1346-000, and ER11-3307-000, all without material condition or change.

By copy of this letter we are serving the same on all parties of record. Should you have any questions, please do not hesitate to contact me.

Respectfully yours,



Len S. Anthony
General Counsel
Progress Energy Carolinas, Inc.

LSA:mhm

cc: Parties of Record

STAREG2536

DUKE ENERGY CAROLINAS AND PROGRESS ENERGY CAROLINAS

Revenue Requirement of FERC Mitigation Capacity
Summary of 35-Month SC Retail Decrement Rider

Effective for Service Rendered July 1, 2012 through May 31, 2015

		Duke Energy Carolinas	Progress Energy Carolinas
SC Retail Mitigation Capacity Allocation	1/	(\$10,316,656)	(\$2,283,121)
Forecast SC Retail kWh Sales	2/	63,634,708,399	19,100,771,698
Decrement \$/kWh Sales		(\$0.000162)	(\$0.000120)
Billing Adj. - SC GRT and SCPSC Utility Assessment Fee		1.004536	1.003010
Proposed SC Retail Rider \$/kWh		(\$0.000163)	(\$0.00012)

Footnotes:

1/ Based on Stipulated Methodology and 2010 Cost of Service Study for DEC, 2011 Cost of Service Study for PEC

2/ Based on September 2011 IRP Filing



May 21, 2012

Mrs. Jocelyn G. Boyd
 Chief Clerk / Administrator
 Public Service Commission of South Carolina
 101 Executive Center Drive
 Columbia, SC 29210

Dear Mrs. Boyd:

The purpose of this letter is twofold. First, Progress Energy Carolinas, Inc. ("PEC") and Duke Energy Carolinas, LLC ("DEC") wish to affirm to the Commission that neither the Supplemental Agreement and Stipulation of Settlement entered into by Progress Energy, Inc., Duke Energy Corporation and the North Carolina Public Staff, filed with the North Carolina Utilities Commission on May 8, 2012, nor the commitments made by DEC and PEC to the Office of Regulatory Staff described in my letter of May 16, 2012, alter or affect the Joint Dispatch Agreement ("JDA"). The forecasted savings to be produced by joint dispatch have not decreased and the terms and conditions have not changed. The only relationship between the JDA and the Supplemental Agreement is the forecasted savings from joint dispatch are included in the projected \$650 million of total system savings. The provision of the Supplemental Agreement that allows DEC and PEC an additional 18 months to achieve the \$650 million in fuel savings is associated with the possibility that the utilities will not burn as much coal as was assumed in estimating the coal blending savings, not joint dispatch.

Secondly, PEC and DEC wish to clarify a statement contained in the commitment letter filed with the Public Service Commission on May 16, 2012 in Docket No. 2011-158-E. In Section A.1 of the letter, under the heading Interim Mitigation Sales, it states that "The costs of the Mitigation Capacity will be allocated to the Utilities' wholesale jurisdiction." This statement was deficient, standing alone, to accurately describe the wholesale allocation. The capacity costs in question will be allocated to the actual mitigation wholesale sales, not PEC's and DEC's wholesale jurisdiction in the aggregate. To the extent the revenues received by PEC and DEC from these sales are less than the allocated costs, PEC's and DEC's shareholders will absorb that loss.

Yours very truly,

Len S. Anthony
 General Counsel
 Progress Energy Carolinas, Inc.

LSA:mhm

STAREG2545

Progress Energy Service Company, LLC
 P.O. Box 1551
 Raleigh, NC 27602

Appendix B
 Docket No. 2011-158-E
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Appendix C
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**Selected Reports Required by the North Carolina Utilities
Commission's Order Issued on June 29, 2012 on the Merger
of Duke Energy Corporation and Progress Energy, Inc.**

1. Monthly reports of tracked fuel savings with monthly fuel reports.
2. FERC Form 1.
3. Integrated Resource Plans.
4. Notice of Filing or Contract for RTO Membership or Withdrawal.
5. Cost Allocation Manuals with respect to goods or services provided by DEC or PEC, etc.
6. Report of any business combination transaction savings.
7. Changes to Electric Cost of Service Manuals.
8. Reports of Duke Energy capital contributions to DEC and PEC.
9. Notice of affiliate bankruptcy.
10. Notice of merger, acquisition or other business combination of DEC or PEC impacting rates or services or those that are not expected to impact rates or services but are \geq \$1.5 billion.
11. Report of violations of Regulatory Conditions and Code of Conduct or Code of Conduct.
12. Request for waiver of aspects of Code of Conduct.